



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
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May 18, 2020

C.H. HUCKELBERRY
County Administrator

Dan Bogert, Chief Operating Officer
Arizona Restaurant Association
3333 E. Camelback Road, Suite 285
Phoenix, Arizona 85018

Re: **Your May 14, 2020 Letter Regarding Previously Proposed Limitations on Restaurant Operations**

Dear Mr. Bogert:

I appreciate you providing a copy of your letter to the Chairman of the Board of Supervisors, Ramón Valadez. After reading your response it is clear we are going to simply have to agree to disagree. I appreciate your comments and some of these will be more than likely adopted by the Board. As you have acknowledged this a fluid situation, if errors are made I prefer to err on the side of public health. I also completely disagree that the adoption of these temporary measures creates a dangerous environment as stated in your letter.

Our temporary measures were developed by our Chief Medical Officer Dr. Francisco Garcia, our present Health Department Director Dr. Bob England who was the Maricopa County Health Director for years and our incoming Dr. Terry Cullen, former Deputy Surgeon General. All of these individuals are experienced and seasoned public health professionals and their guidance in this process has been invaluable. In the development of these temporary regulations, I completely trust their judgement.

Thank you for your comments.

Sincerely,

A handwritten signature in black ink, appearing to read "C.H. Huckelberry", is written over a large, stylized flourish that extends from the signature down towards the typed name below.

C.H. Huckelberry
County Administrator

Enclosure

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Dr. Cara Christ, MD, MS, Director, Arizona Department of Health Services
Jan Leshner, Chief Deputy County Administrator
Francisco Garcia, MD, MPH, Deputy County Administrator and Chief Medical Officer, Health and Community Services
Dr. Bob England, Director, Health Department
Dr. Terry Cullen, Appointed Public Health Director
Craig Sullivan, Executive Director, County Supervisors Association of Arizona

Aileen Padilla

From: Dan Bogert <Dan@azrestaurant.org>
Sent: Friday, May 15, 2020 8:19 AM
To: DIST2; DIST2; District3; District4; District5
Cc: Chuck Huckelberry; Jan Leshner; Francisco Garcia; Bob England; Craig Sullivan ; COB_mail
Subject: ARA Letter to Pima County RE: Huckelberry Memo 5.12.2020
Attachments: Letter to Pima County RE Huckelberry Memo 05.12.2020.pdf; bd-2020 Letter from the Arizona Restaurant Association Re Pima County's Temporary Measures Developed by the Pima County Back to Business.pdf

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Dear Pima County Board of Supervisors,

Attached, please find a letter outlining the Arizona Restaurant Association's responses to Mr. Huckelberry's memorandum dated May 12, 2020." We have serious concerns with he proclamation as passed, and are asking for the Board to reconvene as quickly as possible to make the necessary amendments outlined in our letter.

As always, the ARA stands ready to meet with any County officials to discuss in further detail and more clearly outline the serious safety issues the proclamation as passed creates.

Thank you very much for your consideration and please let me know if you have any questions.

Dan Bogert
Chief Operating Officer



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MAY 15 2020 08:57:11 AM
CP

CLERK'S NOTE:
COPY TO SUPERVISORS
COUNTY ADMINISTRATOR

DATE 5/15/20 *cp*



Arizona Restaurant Association

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May 14, 2020

The Honorable Ramón Valadez
Chairman, Pima County Board of Supervisors
130 W. Congress St., 11th Fl.
Tucson, AZ 85701

RE: May 12, 2020 Memorandum from Chuck Huckelberry regarding our May 11, 2020 Letter.

Dear Chairman Valadez,

We have recently received a copy of a memorandum from County Administrator, Chuck Huckelberry to the Board of Supervisors that outlines his response to our concerns about the previously proposed limitations on restaurant operations. Before I get into specifics on our response, I would just like to note that none of his responses were communicated directly to us. That being said, we are very much willing to continue to provide our thoughts on the guidance and why we sincerely believe the rules as adopted create a dangerous environment.

I would like to address Mr. Huckelberry's responses one by one.

1. **Wellness and symptom checks.** Mr. Huckelberry states that if they could be assured that each contractor, vendor, or third-party delivery drivers were provided wellness checks that this requirement could be eliminated. This is easy to do, just require it of their employers. It does not make logical sense that restaurants would be put in charge of someone else's employees. Secondly, for contactless thermometers to give an accurate temperature, a person must be given time to acclimate to the building's temperature – this is especially true in Arizona in the summer months. This would add needless waiting time for deliveries, create a crowded environment while people are waiting for their temperature, and ultimately lead to increased exposure time if someone were infected. In his point number 6, Mr. Huckelberry states that restaurants have limited space for customers to wait. If acknowledging limit space in restaurants, it seems counterintuitive to have delivery drivers and vendors waiting in those areas to have a temperature check.

Later in his comments, Mr. Huckelberry suggests our concerns assume that vendors, contractors, or third-party delivery drivers would not be cooperative and goes on to state that the County has not experienced these problems themselves. While we are sure the county receives plenty of

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deliveries, I doubt they deal very much with third-party delivery drivers. These hard-working folks make their money by the number of deliveries they can do in a fixed amount of time. I do not think it would be a stretch to suggest they would not be excited about an additional step that can cause them to wait at a location for 10 or so minutes. Secondly, we never assumed that anyone would be uncooperative, and we have never assigned ill intent to any of our vendors or partners. But, let me pose a scenario to you, let us assume that a vendor has a temperature above 100.4 degrees Fahrenheit. What then? The restaurant has no authority of that individual. What should a restaurant do? We have created a situation with no solution.

Because of this, it is still our strong position that temperature checks of these individuals should be the responsibility of their employer. The County could simply adopt a requirement that those businesses temperature check their own employees. Again, we do not see the reasoning behind placing this responsibility and liability on a restaurant.

2. **Cloth masks and gloves.** Mr. Huckelberry claims that the studies we cite are 16 years out of date. In fact, scientific studies are never out of date, they can be proven wrong, added to, or validated by future studies, but the underlying science does not expire. Furthermore, Mr. Huckelberry states that these studies were published prior to the COVID-19 pandemic. While this is true, it is completely irrelevant, because the germ theory of disease has been around for centuries. Because of this, these studies are the best information you have and are scientifically relevant.

Mr. Huckelberry goes on to state that to not require both cloth masks and gloves or frequent hand washing is not an acceptable public health control measure. We do not disagree with requiring masks or frequent handwashing. The issue we have is that under the rules as written, restaurants must choose between having servers continuously wear gloves or to comply with an overly burdensome documentation requirement. The requirement that operators document each time an employee washes their hands between services not only discourages hand washing because of the added administrative burden, it encourages operators to go the easy route and just put their servers in gloves – which is far more dangerous.

This issue should not be about anything but safety. We highly encourage you to rely on your public health staff and adopt a policy that encourages hand washing without the requirement to stop and document it. Please, do not take this one lightly.

3. **Patrons exhibiting symptoms of COVID-19.** Mr. Huckelberry states that this requirement does not turn restaurants into police forces and that it is simply a standard cautionary notification that clearly indicates, at the front of a restaurant, that any person exhibiting COVID-19 symptoms cannot enter. If this were the case, we would have no problem at all. Unfortunately, the way the rule reads is “any patron exhibiting symptoms of COVID-19 be prohibited from entering the facility.” This is not a sign posting requirement, this is a requirement for the restaurant to prohibit

an action by a customer based on a healthcare diagnosis. As written, this provision does turn restaurants into both healthcare providers and a police force.

If it were simply a posting requirement, the ARA would be in full support. However, it is not and the consequences of requiring this type of action by a restaurant can be dire. Last week, a restaurant employee in Oklahoma was shot by a customer after forcing them to leave the premises due to COVID-19 restrictions.¹ Additionally, a security guard at a Family Dollar in Michigan was shot and killed for telling a family they must be wearing a mask to enter the establishment.² This remains an inappropriate function of a restaurant and places our employees in danger and should be removed or changed to a sign posting requirements.

4. **Physical and electronic signage posting at restaurant entrance of public health advisories.** Here Mr. Huckelberry states that if our suggestion is to place the same information on the restaurant's webpage or other means of electronic communication, then they have no problem with it. That was clearly not our suggestion. Our letter clearly states our only issue was with the use of the word "and" between physical and electronic. By simply changing to "or" the problem would have been solved. However, it appears this opportunity was used to add an additional requirement for websites. Something that was not in the original recommendations and we see no reason to include it now. Having a physical OR electronic sign at the entrance of the restaurant provides the public with the same information. The addition of posting on a restaurant's website requires additional cost and hours, and in the case of many smaller restaurants the use of expensive contractors.

If the intent is for the County to spread the word about COVID-19 precautions, the County should do a public health information campaign and educate the entire public, not just patrons browsing a restaurant website.

5. **Indoor occupancy limited to 50 percent or lower.** Mr. Huckelberry indicates that this simply implies or requires that social distancing will be achieved within the confines of a restaurant where food service had previously occurred. Our original points on this provision still stand. The 6-feet of separation provide the organic reduction in occupancy. There will be restaurants that see their occupancy cut to 30 or 25 percent, but there are also restaurants that could operate with 60 or 70 percent of their occupancy and still meet or exceed the social distancing requirements. Furthermore, hotels and gyms were given the flexibility to exceed 50% provided they meet the social distancing requirements. We see no reason why the same flexibility should not be given to restaurants. This provision only serves to further diminish the capabilities of smaller restaurants.

¹ (Lewis, 2020)

² (Snyder, Alsharif, & Waldrop, 2020)

6. **Service by take out, reservation or call ahead seating only.** Here Mr. Huckelberry states that this provision is important to keep patrons from congregating at the entrance of a restaurant and that to simply tell patrons to physically distance is problematic. It is logically inconsistent to us that in the case of point number three we are expected to tell a patron to leave the facility and that is good enough, but here, instructing patrons where to wait is not good enough. Furthermore, we never suggested to simply tell a patron to socially distance. Our letter clearly states that the focus should be placed on employing technology solutions such as a simple text message, so that the patrons can wait in their car until their table is ready. Under this scenario, no waiting would be occurring on the premises. Additionally, many restaurants do not have a business model that can accommodate reservations, but they do have the ability to mitigate this threat other ways. A perfect example is a coffee shop where a patron may want to purchase a cup of coffee or iced tea during their lunch break and just relax. Are we really going to ask them to make a reservation?
7. **Physical distancing of 6-foot minimum between tables.** The ARA is in support of this measure, but Mr. Huckelberry did comment that “that is dated guidance and the CDC has not released what would be the latest guidance to anyone.” My only comment on that is that if no new guidance has been issued, then the 6-foot guidance is not “dated” it is in fact current guidance.
8. **Clearly marked 6-foot space through restaurants.** This item has been changed to address ARA concerns.
9. **Parties no larger than 10.** We have been and continue to be in support of this.
10. **Menus in a format that does not promote potential virus transmission.** We have been and continue to be in support of this.
11. **Elimination of self-service station including salad bars and buffets, and soda refill stations.** Mr. Huckelberry states that there are no technical solutions for any of these. However, that is simply not true and additionally, we should not create an environment where additional options are developed but cannot be used. In April, Jones Bar-B-Q in Kansas City introduced a contactless vending machine to sell its food.³ Similar solutions could be found for other problems as well. Walmart has instituted a pickup machine in which a customer simply scans a code and items are dispensed with a robot arm. This technology can easily be adapted for plate and silverware dispensing or for dispensing food items. The point is, we should not limit these solutions and the rules should be changes to prohibit self-service without contactless solutions.

³ (Vending Times, 2020)

12. Expansion of outdoor service areas to increase physical distancing. We have been and continue to be in support of this.
13. Hand sanitizer available at entrances to the facility, restrooms and in employee work areas. Mr. Huckelberry states that the County is in the process of purchasing hand sanitizer and that if the purchase becomes available, the County will make it available to local restaurants. In our letter we stated that we think it would be great to have hand sanitizer at every location, but the truth is hand sanitizer is hard to source and it will be impossible for many restaurants to comply with this. While it is commendable the County is attempting to source hand sanitizer for restaurants, this should not be a rule unless the County can guarantee the supply. Without that, you are disenfranchising smaller restaurants that may not receive an allocation. Handwashing is already known to be the best way to sanitize your hands and should be a solution. If the concern is about someone having just washed their hands touching an item (such as a door) that may be contaminated, that can be solved by regular sanitation of those surfaces, or the implementation of other measures such as automatic doors, or curved entrance ways (similar to airport bathroom) that promote contactless entrance and exit.
14. Sanitize customer areas after each sitting with EPA-registered disinfectant, including but not limited to tables, tablecloths, chairs/booth seat, table-top condiments and condiment holders. We have been and continue to support this.
15. Post documentation of cleaning logs online and at the restaurant entrance documenting cleaning of all public areas. Mr. Huckelberry states that this provision is needed given the present public health emergency. If that is the case, this would be required by all businesses including the county. Instead it is only focused on certain businesses. As we stated in our original letter, requiring the transcribing of cleaning logs to be posted at an entrance and online is overly burdensome and takes away staff from actually cleaning. The requirement should be for the restaurant to post their cleaning policies at the entrance. This is an example of something looking good on paper but is bad in practice. We want restaurants focused on sanitation and not meeting an hourly posting requirement.

We are not addressing items 16 and 17 since they are not enforceable.

In summary, we completely disagree with Mr. Huckelberry's assessment of our concerns, especially when he disregards scientific studies because they are not "new enough." Restaurants have a responsibility to our customer base, and we recognize the need for guidance. However, it is frustrating to see our industry singled out with overly burdensome requirements while other industries (such as big box retail) have no such restrictions but the same touch points. We strongly urge the Board of Supervisors to immediately revise these regulations to align them with best practices and to discourage a more dangerous situation from forming.

The Honorable Ramón Valadez

May 14, 2020

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As always, I am available for any meeting and to provide additional details. Thank you very much for your consideration.

Sincerely,



Dan Bogert

Chief Operating Officer

Arizona Restaurant Association

Cc:

The Honorable Sharon Bronson, Vice Chair, Pima County Board of Supervisors

The Honorable Ally Miller, Member, Pima County Board of Supervisors

The Honorable Steve Christy, Member, Pima County Board of Supervisors

The Honorable Betty Villegas, Member, Pima County Board of Supervisors

Dr. Cara Christ, Director, Arizona Department of Health Services

Chuck Huckelberry, County Administrator, Pima County

Jan Leshar, Chief Deputy County Administrator, Pima County

Dr. Francisco Garcia, Deputy County Administrator, Health & Community Services, Pima County

Dr. Bob England, Director, Health Department, Pima County

Craig Sullivan, Executive Director, County Supervisors Association

Attachment: Memorandum from Chuck Huckelberry to the Pima County Board of Supervisors dated
May 12, 2020



MEMORANDUM

Date: May 12, 2020

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

From: C.H. Huckelberry
County Administrator 

Re: **May 11, 2020 Letter from the Arizona Restaurant Association Regarding Pima County's Temporary Measures Developed by the Pima County Back to Business Taskforce and Operators of Restaurants in Pima County**

The attached concerns of the Arizona Restaurant Association (ARA) requires a response. I greatly disagree that the "points adopted by the county are counter to science." We believe it is quite the opposite, they are directly in line with the best public health guidance provided by public health professionals and physicians. I will attempt to respond to each of the concerns of the ARA outlined in their letter.

1. **Wellness and Symptom Checks** – Apparently, their concern is over wellness checks associated with those other than restaurant personnel such as vendors, contractors and third-party deliverers. If we could be assured that each contractor, supplier and third-party delivery service provided wellness checks, this requirement could be eliminated at the restaurant level. However, our experience has been that at wellness check we have been performing over the last three weeks, we have now conducted over 25,000 wellness checks. The only elevated temperatures above 100.4F have come from outside public individuals or in the case of one individual who tested positive for COVID-19 was a visitor to a specific employee within a County building. The comment of the ARA assumes that vendors, contractors or third parties will not be cooperative. Our experience has been the opposite. Most understand the fact that this needs to be a cooperative effort among all parties.

Hence, I do not share the same concern as the ARA in Item 1.

2. **Cloth Masks and Gloves** – The ARA cites studies and documents that are nearly 16 years out of date and/or published prior to the COVID-19 public health emergency. In our requirement, we do indicate there is an exception for gloves not being required if servers sanitize or wash their hands between servings. There is nothing in the guidance that would prevent the restaurant from designating specific employees as food runners to lower contact points, provided those same individuals wash and sanitize their hands between deliveries.

The ARA indicates that these requirements do not have "scientific backing." In fact, to not require both cloth masks and gloves or frequent hand washing is not an acceptable public health control measure to prevent the spread of COVID-19.

The Honorable Chairman and Members, Pima County Board of Supervisors
Re: **May 11, 2020 Letter from the Arizona Restaurant Association Regarding Pima County's Temporary Measures Developed by the Pima County Back to Business Taskforce and Operators of Restaurants in Pima County**
May 12, 2020
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3. **Patrons Exhibiting Symptoms of COVID-19** – We do not place the restaurant in the position of being a police force. It is simply a standard cautionary notification that clearly indicates, at the front of a restaurant, that any person exhibiting COVID-19 symptoms cannot enter a facility. This is a typical warning similar to warning signs on highways where a vehicle approaches a sharp curve and there is a warning sign placed as an advanced notice and warning to the public. These signs, if posted, could provide some level of liability protection. It allows operations to deny service to a patron if they have a good faith belief that the individual is ill.
4. **Physical and Electronic Signage Posting at Restaurant Entrance of Public Health Advisories and/or web signage.** – If the suggestion is to place the same information on the restaurant's webpage or other means of electronic communication, we have agreed and included that in our Item 4.
5. **Indoor occupancy limited to 50 percent or lower** – This is a measure that simply implies or requires that social distancing will be achieved within the confines of a restaurant where food service had previously occurred. It is likely the six foot standard will result in occupancy that may be less than 50 percent.
6. **Service by Take out, Reservation or Call Ahead Seating Only** – This is an important measure to keep patrons from congregating at the entrance of a restaurant. To simply tell patrons to physically distance at an entrance is problematic, particularly when the entrance may have limited space available that would preclude physical distancing.
7. **Physical Distancing of 6 feet Minimum between Tables** – It is appropriate that this standard be in place. I notice that the ARA indicated and complied with "CDC guidance." Please note that is dated guidance and the CDC has not released what would be the latest guidance to anyone.
8. **Clearly Marked 6-foot Space Throughout Restaurants** – This item has been modified to require to be in those locations where it is likely patrons would que and potentially violate spacing marks. This would be applicable most likely to hallways leading to serving areas and/or restrooms.
9. **Parties no Larger than 10** – No Comment
10. **Menus in a format that does not promote potential virus transmission** – No Comment
11. **Elimination of Self-service stations including salad bars and buffets, and soda refill stations** – There are no technical solutions regarding the elimination of self-service stations, including salad bars to minimize the spread of COVID-19.
12. **Expansion of Outdoor Service Areas to Increase Physical Distancing Standards** – Please note we have not limited the combined outdoor and indoor service area to be

The Honorable Chairman and Members, Pima County Board of Supervisors
Re: **May 11, 2020 Letter from the Arizona Restaurant Association Regarding Pima County's Temporary Measures Developed by the Pima County Back to Business Taskforce and Operators of Restaurants in Pima County**

May 12, 2020

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at or less the previously occupancy limit. If possible, restaurants that could exceed those occupation limits should be able to do so in order to improve profitability.

13. **Hand Sanitizer Available at Entrances to the Facility, Restrooms and in Employee Work Areas** – Hand sanitizer should be a requirement. As we have indicated previously, the County is in the process of purchasing large quantities of personal protective equipment as well as hand sanitizer. If our purchases become available, they will be made available to local restaurants.
14. **Sanitize Customer Areas After Each sitting with EPA-registered disinfectant, including but not limited to: Tables, Tablecloths, Chairs/Booth seats, Table-top Condiments and condiment holders** – No Comment
15. **Post documentation of cleaning logs online and at the entrance documenting cleaning of all public areas** - Given the present public health emergency, this additional documentation to ensure the restaurant provides the highest degree of sanitation standards is reasonable.
16. **Implement Touchless Payment Methods** – We indicated this is optional
17. **Restaurant Personnel to have a national certification in food safety and handling, as well as specific training in the prevention of COVID-19** – There are currently national standards regarding training and certification for food safety. We are in the process of developing a contract with SERVSAFE national certification trainers to include COVID-19 training.

In summary, we do not agree with the May 11, 2020 letter from the ARA and we support the temporary regulations recommended by the Pima County Back to Business Steering Committee and various subcommittees. I should note that there were members of the restaurant and bar subcommittee who believe that reopening on May 11, 2020 was premature; however, it has occurred and it is incumbent upon Pima County as the public health agency of the region to recommend these temporary control measures, which in our view, represent the best practices recommended by public health officials.

CHH/anc

Attachment

- c: Jan Leshar, Chief Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,
Health and Community Services
Dr. Bob England, Director, Health Department
Dr. Terry Cullen, Appointed Public Health Director, Health Department



Arizona Restaurant Association

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May 11, 2020

The Honorable Ramón Valadez
Chairman, Pima County Board of Supervisors
130 W. Congress St., 11th Fl.
Tucson, AZ 85701

Dear Chairman Valadez,

I am writing you on behalf of the Arizona Restaurant Association (ARA) and our industry to express concerns about the recently issued Temporary Measures related to the Pima County Food Code (attached). While we applaud Pima County's efforts to try to educate consumers and operators about best practices during the COVID-19 crisis, many of the points adopted by the county are counter to science, overly burdensome, and create inequities within the Pima County restaurant industry. I respectfully ask that you review the concerns below and to amend your guidance document to align with best practices.

Item 1: Wellness/symptom checks, including temperature checks for all restaurant personnel, vendors, contractors, third party delivery service workers, etc. as they arrive on premises and before opening of a restaurant

The Governor's guidance and ARA guidance already advise restaurants to have a health screening protocol in place for employees in accordance with the CDC recommendations. The CDC, OSHA, EEOC, and AZDHS all have parameters around employee health screening and legal guidance to help protect employers. However, the inclusion of contractors, suppliers, and third-party delivery drivers would create a hotbed of liability for the restaurant and potentially illegally interfere in preexisting contracts.

While restaurants do have authority over their own employees (i.e. to require them to go home and follow CDC isolation guidance), no such authority exists for suppliers or third-party delivery drivers. Restaurants would be placed in a situation where they are gathering health information on an individual not within their employ and would be left with no options for follow-up if the contractor or driver failed a wellness check. Wellness checks for these individuals should be the responsibility of their employer. For example, a delivery driver should receive a wellness check prior to starting their shift, not at every restaurant they visit. Similar, third-party delivery drivers should be doing their own wellness checks prior to signing on. Again, that should be the responsibility of those employers and platforms to ensure their workers are healthy enough to work. Restaurants cannot be turned into healthcare experts for anyone who enters their building. This structure would create unrealistic expectations for small business operators to serve as a police force and opens the door to litigation and mounting liability with the CDC, OSHA, EEOC, and AZDHS recommendations on the subject.

The Honorable Ramón Valadez

May 11, 2020

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The ARA opposes requiring restaurants to perform wellness checks on anyone except their own employees.

Item 2: Cloth masks and gloves and frequent hand-washing is required for all servers and restaurant personnel (except gloves not required for servers if hands are sanitized between servings)

The FDA food code, as adopted by Pima County already has strict glove use and sanitation protocols in place for staff. Restaurants are aware of the increased sanitation needs and social distancing requirements in the COVID-19 environment. The requirement to have front of the house staff wear gloves is overly burdensome on the already stretched supply chain and counter to scientific evidence that shows consistently wearing gloves creates a more dangerous environment than regular washing of hands. In fact, a 2004 study found that 50% of the time, those who were wearing gloves failed to notice punctures or tears in their gloves. A separate CDC study reported that workers are far less likely to wash their hands when wearing gloves. Proper glove use would require discarding gloves every time an object is touched, washing your hands, and donning a new pair of gloves. While this process works well in a healthcare setting, it is not translatable to the food service industry and cannot practically be implemented with our current supply chain limitations. The recommendations for restaurants should be to adopt an enhanced handwashing schedule for front of the house employees and/or designate specific employees as food runners to lower contact points. This is the exact guidance suggested by the Arizona Restaurant Association that was developed with industry and public health experts.

The ARA opposes any requirement placed on restaurants that do not have scientific backing and will in fact create a more dangerous environment.

Item 3: Any patron exhibiting symptoms of COVID-19 is prohibited from entering the facility

Again, this recommendation places restaurants in a position as serving as healthcare providers and a police force. There is no CDC guidance on checking customers, and restaurant employees are not trained clinicians and are not in a position to differentiate between the symptoms of COVID-19 or a high pollen count. While it is perfectly acceptable, for a restaurant to post a sign listing the symptoms of COVID-19 and asking customers to not enter the establishment if they are experiencing any of these, it is inappropriate to ask restaurant employees to diagnose an individual. This too would place added liability on the restaurant and open them up to litigation, especially under the ADA. No other business type (grocery stores, retailers, etc.) has this type of requirement and that is because it is an inappropriate function of that business unit.

The ARA oppose the inclusion of item 3.

Item 4: Physical and electronic signage posting at the restaurant entrance of public health advisories prohibiting individuals who are symptomatic from entering the premises.

The posting of signs informing the public to not enter if they are symptomatic is a good suggestion for operators. However, the phrasing of "physical and electronic" is duplicative. Our suggestion is to say "physical or electronic."

Item 5: Indoor occupancy limited to 50 percent or lower

A one size fits all approach to occupancy is counterproductive and tends to hurt smaller establishments more. Building occupancy levels are not based on the space between people but rather a calculation based on square

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The Honorable Ramón Valadez

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footage and fire exits. This means that two similarly sized buildings can have very different occupancy ratings. The current guidance of keeping parties separated by at least 6-feet will already have the effect of limiting the number of individuals inside the building. A 6-foot standard allows restaurants to restructure their layout to keep everyone safe without creating the unintended consequence of a competitive disadvantage based on the type of building you are in.

The ARA opposes the inclusion of an occupancy-based limitation that is not based on scientific evidence and is not applied equally. The 6-foot standard is easily enforceable and can be applied equally.

Item 6: Service by take out, reservation or call ahead seating only, including Text and/or telephone notification of patrons requesting restaurant in-person service, allowing restaurant patrons to physical distance until called for service

Restaurants have the ability to keep everyone socially distant while waiting for a table. While reservations should be encouraged, it should not be a requirement. Many restaurants are not set up to take reservations. Instead, the focus should be on employing technology solutions and utilizing outdoor space to keep any parties waiting for a table separated. For example, a party can simply put their name on the list and go wait in their car until their table is ready. Any recommendations must recognize that many restaurants are not set up to take reservations (which over 20% of reservations are never seated) but do have the ability to keep patrons from congregating.

Item 7: Physical distancing of 6 feet minimum between tables

This is in alignment with CDC guidance and should be included

Item 8: Clearly marked 6-foot spacing marks throughout the restaurant, along entrances, hallways, restrooms and any other location within a restaurant

Markings should only be used where required (e.g. checkout counters, etc.). However, many sit-down restaurants will utilize other ways to keep patrons separate (e.g. empty tables, traffic flow measures) and physical markers would be duplicative in this scenario. Instead, consider rephrasing to state "restaurants should take measures to ensure patrons or groups of patrons remain 6-feet apart when moving through the restaurant."

Item 9: Parties no larger than 10 allowed per table

This is in line with CDC guidance and should be included

Item 10: Menus must be in a format that does not promote potential virus transmission e.g. menu boards, single use menus

This is in line with public health and ARA guidance and should be included.

Item 11: Elimination of self-service stations including salad bars, buffets, soda refill stations

While self-service stations do present a potential avenue for transmission, the overall prohibition of them does not recognize the evolving reality of restaurant industry. Many technology solutions can be implemented to

ensure that certain self-service stations (e.g. napkin dispensers, refill stations, etc.) are completely touchless. Consider rephrasing to allow for the utilization of technology solutions for self-service with an increased sanitation schedule.

Item 12: Expansion of outdoor service areas to increase physical distancing standards

This is a great idea, and the Pima County Health Department should institute an accelerated way for restaurants to extend their permitted area.

Item 13: Hand sanitizers available at entrances to the facility, restrooms and in employee work areas

It would be great to have hand sanitizing station in front of every doorway. Unfortunately, the reality of the situation is hand sanitizer is an allocated item. Restaurants will have a difficult time procuring enough hand sanitizer to maintain all those stations. The supply chain will eventually be able to provide the product, but we do not have a clear understanding of when that will be. By including this requirement, you are setting restaurants up for failure. There may be some larger restaurant groups that have preexisting relationships with suppliers of hand sanitizer and may be able to continue to receive an allocation, but the smaller restaurants will suffer under this requirement.

Item 14: Sanitize customer areas after each sitting with EPA-registered disinfectant, including but not limited to: Tables, Tablecloths, Chairs/booth seats, Table-top condiments and condiment holders.

This is in line with CDC, AZDHS, and ARA guidelines and should be included.

Item 15: Post documentation cleaning logs online and at the entrance documenting cleaning of all public areas (inclusive of counter tops, door handles, waiting areas, etc.) at least every 2 to 3 hours

The posting of documentation of cleaning logs online and at the restaurant entrance is overly burdensome and adds little in the way of increased safety. Restaurants should be encouraged to post their cleaning protocols for customers to see, but the requirement that we post logs online and at the entrance is overkill. The food code already provides sufficient guidance on this and patrons will want to see restaurant staff actively cleaning. This requirement just adds unnecessary costs and administrative overhead to an industry that is already struggling. Additionally, many restaurants do not have an online presence and would be placed in a competitive disadvantage.

The ARA opposes the inclusion of this provision.

Item 16: Implement touchless payment methods

While a great idea, this too will create a competitive disadvantage for smaller restaurants and will disenfranchise a portion of our customer base. Depending on a restaurant's current POS system and credit card processor, a completely new system may be required to implement totally touchless payment systems. This is a cost a restaurant cannot afford right now. Additionally, touchless payments only work with certain credit cards and phone-based payment apps. This means that customers that do not have access to such credit cards or smart phones will be unable eat at restaurants.

The Honorable Ramón Valadez
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While touchless payment systems should be encouraged, there should also be alternatives such as sanitation after each use, etc.

The ARA opposes the requirement that restaurants implement touchless payment systems without flexibility for smaller operators and our customers.

Item 17: Restaurant personnel to have a national certification in food safety and handling, as well as specific training in the prevention of COVID-19.

The food code already requires restaurant employees to have national certification in food safety and handling so the inclusion here, while fine, is also duplicative. However, the requirement for restaurant employees to have specific training in the prevention of COVID-19 is an interesting thought. Where is this training? Who provides it? What level of training? This is not something that is as easily done as it is written. The two main ways to prevent the spread of COVID-19 is physical distancing and proper sanitation. Both of which employees will already need to be trained on. The inclusion of the training requirement may cause confusion about standards and should be left out.

Sincerely,



Dan Bogert
Chief Operating Officer
Arizona Restaurant Association

Cc:

The Honorable Sharon Bronson, Vice Chair, Pima County Board of Supervisors
The Honorable Ally Miller, Member, Pima County Board of Supervisors
The Honorable Steve Christy, Member, Pima County Board of Supervisors
The Honorable Betty Villegas, Member, Pima County Board of Supervisors
Dr. Cara Christ, Director, Arizona Department of Health Services
Chuck Huckelberry, County Administrator, Pima County
Jan Leshner, Chief Deputy County Administrator, Pima County
Dr. Francisco Garcia, Deputy County Administrator, Health & Community Services, Pima County
Dr. Bob England, Director, Health Department, Pima County
Craig Sullivan, Executive Director, County Supervisors Association

Attachment: Temporary Measures Guidelines or Best Practices for Phase Reopening

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