

ORDINANCE NO. 057, SERIES 2020

**AN EMERGENCY ORDINANCE PERMITTING THE TEMPORARY USE OF PARKING LOTS, OPEN AREAS AND SIDEWALKS FOR OUTDOOR DINING AND ALCOHOL SALES IN RESPONSE TO LIMITATIONS ON RESTAURANTS ISSUED BY THE GOVERNOR PURSUANT TO THE COVID-19 CRISIS (AS AMENDED).**

**SPONSORED BY: PRESIDENT JAMES AND COUNCIL MEMBERS COAN, GREEN, SHANKLIN, DORSEY, SEXTON SMITH, HOLLANDER, MULVIHILL, KRAMER, BLACKWELL, FOX, FOWLER, TRIPLETT, REED, WINKLER, PARKER, PIAGENTINI, BENSON, GEORGE, ENGEL, PEDEN, FLOOD AND YATES**

**WHEREAS**, The Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") recognizes the economic impact of the COVID-19 Crisis on restaurants throughout the city of Louisville; and

**WHEREAS**, The safe provision of food to Louisville residents is always critical, but especially so during the current State of Emergency; and

**WHEREAS**, Louisville restaurants have been profoundly impacted by the Covid-19 Crisis and will need assistance to prevent their permanent closure; and

**WHEREAS**, On May 7, Governor Beshear announced that Louisville restaurants are being permitted to open on May 22 at a reduced capacity for indoor seating; and

**WHEREAS**, Social distancing must still be maintained upon reopening, resulting in the need for greater dining space for both the benefit of the restaurants and the safety of their patrons; and

**WHEREAS**, Governor Beshear's May 7 announcement further provides that outdoor restaurant seating is permissible with appropriate social distancing; and

**WHEREAS**, Outdoor activities, including outdoor restaurant seating, have been determined to be safer and less likely to lead to the spread of COVID-19 than indoor restaurant seating; and

**WHEREAS,** The evolving details of the current State of Emergency necessitate quick adaptation by the Council to address problems and opportunities as they arise; and

**WHEREAS,** The Planning Commission is operating at a limited capacity because of the need for social distancing, rendering it ill-suited to hold a public hearing on the temporary changes to the Land Development Code (LDC) below; and

**WHEREAS,** The proposed changes are temporary in nature and narrowly tailored to address the negative impacts created by the COVID-19 crisis; and

**WHEREAS,** The Council has the final say on changes to the LDC, rendering it the appropriate body to take emergency action on this issue; and

**WHEREAS,** This Ordinance requires emergency consideration as authorized by Council Rule 7.01 because it is essential that the government act expeditiously to make resources available to address this evolving public health crisis.

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** From May 22, 2020 until 30 days after the date Governor Beshear declares the state of emergency in response to COVID-19, originally declared on March 6, 2020 by Executive Order 2020-215, has ceased~~November 22, 2020~~, all otherwise LDC-compliant restaurants within Jefferson County, regardless of zoning classification, are hereby permitted to:

1. Use a portion of their on-site open areas and/or, off-street parking used to fulfill the parking requirements of the LDC, other than those spaces designated as accessible parking spaces, as temporary outdoor dining space;

2. Use a portion of their off-site, off-street parking used to fulfill the parking requirements of the LDC, other than those spaces designated as accessible parking spaces, as temporary outdoor dining space;
3. Use portions of the sidewalk, other than that required for utilities or the Americans with Disabilities Act (“ADA”), as temporary outdoor dining space; and
4. Serve alcohol to patrons seated in such temporary outdoor dining space, provided they have the requisite ABC License to serve alcohol on the restaurant premises. This permission applies regardless of whether or not the restaurant has a Conditional Use Permit for outdoor alcohol sales.

**SECTION II:** Louisville Forward is hereby directed to develop and publish on its website guidelines for restaurants wishing to take advantage of this temporary outdoor dining space opportunity substantially in the form of the draft guidelines attached hereto as Exhibit A. Guidelines shall be consistent with all applicable health and social distancing directives. Any restaurant which chooses to operate temporary outdoor dining space shall comply with all guidelines issued by Louisville Forward. Such temporary outdoor dining spaces must also comply with all applicable fire, life safety and ADA requirements. Louisville Forward may alter these guidelines as needed as the COVID-19 situation develops provided that the guidelines remain consistent with the general tenants of this Ordinance and that no formal application requiring agency review and approval prior to expanding temporary outdoor dining into the sidewalks, open areas and/or parking lots of participating restaurants is required.

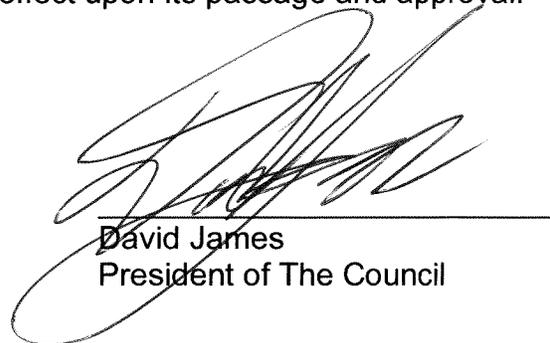
**SECTION III:** To ensure the assistance enabled by this Ordinance reaches as many restaurants as possible, Louisville Forward is hereby directed to suspend enforcement of LMCO 153.21 with respect to any violations of binding elements resulting from temporary outdoor dining that complies with the requirements of this Ordinance for the duration of this Ordinance.

**SECTION IV:** In order to quickly and effectively address some of the difficulties caused by the COVID-19 Crisis, the enactment of this Ordinance is deemed an emergency pursuant to Rule 7.12 of the Rules of the Council.

**SECTION V:** Smoking is prohibited within 15 feet of any temporary outdoor dining spaces created pursuant to this Ordinance.

**SECTION VI:** This Ordinance shall take effect upon its passage and approval.

  
Sonya Harward  
Metro Council Clerk

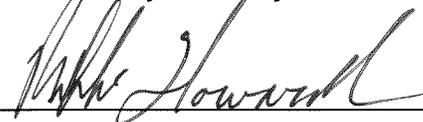
  
David James  
President of The Council

  
Greg Fischer  
Mayor

5/15/2020  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell,  
Jefferson County Attorney

BY: 

**LOUISVILLE METRO COUNCIL  
READ AND PASSED  
May 14, 2020**

1. For the purposes of Ordinance No. 57, Series 2020, a Restaurant shall mean an entity that stores, prepares, serves, vends foods directly to the consumer or otherwise provides food for human consumption, including any establishment holding a food service permit in good standing.
2. To ensure that there are not any avoidable adverse impacts associated with outdoor activities as expanded under Ordinance No. 57, Series 2020 (“Temporary Outdoor Dining Ordinance”), the conditions and requirements in this guidance (“Conditions”) shall apply.
3. The Restaurant shall be compliant with all other applicable codes and regulations, executive orders, ordinances, and statutes, including, but not limited to, any guidance relating to health and social distancing directives.
4. To confirm compliance with these Conditions, application shall be made to the Office of Planning & Design Services in Develop Louisville/Louisville Forward in the form of a Temporary Outdoor Dining Application (“Application”), which will be available at <https://louisvilleky.gov/government/build-back-better-together/temporary-regulatory-relief-restaurants>. No fee will be charged for this Application. Applications are approved upon submittal on the condition that the applicant comply with the Temporary Outdoor Dining Ordinance and these Conditions. By applying, the applicant agrees to fully comply with the Temporary Outdoor Dining Ordinance and these Conditions. The applications are subject to further review and inspection, and complaints or reports of non-compliance shall be investigated by the Zoning Enforcement staff of the Office of Planning & Design Services. Should further review and inspection, or an investigation of a complaint, reveal non-compliance with the Temporary Outdoor Dining Ordinance and/or these Conditions, the applicant is responsible to make corrections immediately, or the approval may be revoked.
5. For outdoor dining and alcohol sales and for the consumption of alcoholic beverages outdoors by customers pursuant to these Conditions and Temporary Outdoor Dining Ordinance, restaurants must comply with the following:
  - a. The restaurant must currently have a license to sell alcoholic beverages indoors in order to sell alcohol outdoors.
  - b. The outdoor dining area must be located on the same property as the restaurant and/or within its parking area.
  - c. Outdoor dining areas shall be delineated in order to define the boundaries of the area and signage shall be displayed that prohibits alcoholic beverage consumption outside that area.
  - d. The restaurant must comply with any licensing requirements to expand alcoholic beverage consumption in the new outdoor dining area.
6. Expansion or creation of outdoor dining areas within existing on-site open areas and parking lots pursuant to these Conditions and Temporary Outdoor Dining Ordinance must comply with the following:
  - a. Up to 100% of the parking area may be used for the purposes of the outdoor dining area, excluding any parts of the parking area that are used as fire lanes or for ADA accessible parking as noted below.
  - b. Any new outdoor lighting shall be directed down and away from neighboring residential property.

- c. Outdoor dining areas shall be designed to allow for proper egress and circulation and shall not impede access into, and egress out of, the building.
  - d. Any new (i) structures or (ii) tents larger than 400 square feet will require review and approval by the Department of Codes & Regulations.
  - e. Existing ADA (Accessible) parking spaces shall not be eliminated or reduced to create or expand outdoor dining areas. These spaces may be temporarily relocated to a location that maintains ready accessibility to the Restaurant and shall be identified by an above grade sign as reserved for accessible parking.
  - f. Existing drive aisles needed to access active parking or to access the property in general shall be retained. Existing drive aisles to areas where parking is replaced with new outdoor dining and can be eliminated without impact to site access or safety may be used for outdoor dining areas.
  - g. Existing fire lanes and fire department access shall be retained as allowed by the local fire department.
  - h. When adjacent to residential property, the operating hours of these temporary outdoor dining areas shall be limited to between 7 A.M. and 10 P.M.
  - i. Areas for queuing of customers shall be established with guidance provided to meet established social distancing guidelines.
  - j. Existing required landscaping, trees, or screening shall not be removed or damaged.
  - k. Within local preservation districts or design overlay areas these installations shall be considered "temporary" and exempt from review provided that no permanent changes are made to the exterior of the properties or historic buildings.
7. Expansion or creation of outdoor dining areas within any public sidewalks must comply with all Public Works and ADA requirements with respect to the placement of street furniture.
  8. All physical improvements made during this time period pursuant to the Application are considered temporary and shall be removed after the expiration date specified in Temporary Outdoor Dining Ordinance.