

ORDINANCE NO. _____, SERIES 2018

AN ORDINANCE AMENDING CHAPTER 118 TO ADOPT A LOCAL FOOD PERMIT FOR FOOD SERVICE ESTABLISHMENTS TO BE IMPLEMENTED AND ENFORCED BY THE LOUISVILLE METRO DEPARTMENT OF PUBLIC HEALTH AND WELLNESS. (AMENDMENT BY SUBSTITUTION.)

SPONSORED BY: COUNCIL MEMBERS BUTLER AND HOLLANDER

WHEREAS, Louisville Metro has become nationally recognized as a “foodie city” due to the great restaurants in our community;

WHEREAS, Louisville Metro Department of Public Health and Wellness (“Department of Public Health”) has first class health inspectors who enforce all state and local health laws to enable our restaurants meet applicable health and food safety standards;

WHEREAS, the Department of Public Health was the first city in Kentucky to participate in the FDA’s National Retail Standards Program, which defines what constitutes a highly effective and responsive program for the regulation of foodservice and retail food establishments;

WHEREAS, the Department of Public Health created and enforces the effective restaurant rating system that keeps the public informed on the results of its inspections of the restaurants in Jefferson County;

WHEREAS, the Department of Public Health provides many other valuable services to the restaurants in Louisville, which include: pre-opening consults for new restaurants; in-service training for food service employees to encourage safe food handling practices and proper facility maintenance; non-operational inspections for new restaurants with an operational inspection conducted approximately 30 days; 24-hour

emergency response to facilities experiencing emergency situations such as a fire, flood damage, fire suppression discharge, etc.; and, employees who are on-call 24/7 that helps expedite the re-opening of restaurants.

WHEREAS, Louisville Metro Council is committed to supporting and funding the Department of Public Health in providing vital consumer protection through the regulation of health and safety of our food retail and restaurants.

WHEREAS, Louisville Metro Council, by this Ordinance, creates an Local Food permit that will require Louisville Metro restaurants to obtain the permit from the Department of Public Health to operate a restaurant in Jefferson County.

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

SECTION I: Section 118.01 of the Louisville/Jefferson County Metro Government Code of Ordinances (“LMCO”) is hereby amended to add and modify the following definitions:

§ 118.01 DEFINITIONS.

DIRECTOR. Louisville Metro Department of Public Health and Wellness Director.

FEE EXEMPT FACILITIES. Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term “charitable food kitchens” means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.

FOOD SERVICE ESTABLISHMENT. Any fixed commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops, cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; night clubs; roadside stands; industrial feeding establishments; private, public or non-profit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service in the premises or elsewhere with or without charge. It does not include food in vending machines, establishments serving beverages only in single service or original containers or retail food markets which only cut, slice, and prepare cold-cut sandwiches for individual consumption.

RETAIL FOOD MARKET. Any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, non-potentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments.

SEASONAL CONCESSIONS. Establishment where limited concessions are served to include hotdogs, nachos and cheese, and heat and serve items usually in conjunction with a swimming pool facility or ballpark.

SECTION II: Section 118.08 of LMCO is hereby created and reads as follows:

§ 118.08 LOCAL FOOD PERMIT

(A) All Food Service Establishments, Retail Food Markets, Seasonal Concessions, and combinations thereof located and operating in Jefferson County are required to annually obtain a Local Food permit.

(1) *Permit requirements.* Any party seeking to obtain the Local Food permit shall submit a written application to the Louisville Metro Department of Public Health and Wellness upon a form provided by that agency. The applicant must be in full compliance with all applicable laws and regulations of the Commonwealth of Kentucky and Metro Louisville. Permits will renew annually on January 1 in conjunction with state food service permits.

(2) *Fees and schedule.* The fee for an annual Local Food permit is Seasonal Concessions (603) = \$25, Retail Food Market (610) = \$50, Temporary Food Service Establishment (604) = \$80, Food Service Establishment (605) = \$80, and Combination Retail Food Market and Food Service Establishment (607) = \$80. The Board will annually review the administrative cost of enforcement to determine whether the Local Food permit fee is sufficient to meet the expense of administering the program. If the annual review reveals a deficit with enforcement, the Board may approve an increase of the Local Food permit fee no more than \$5 within any four year period. If the annual review reveals a surplus with enforcement, the Board shall decrease the Local Food permit fees to an amount sufficient to cover the administrative cost of enforcement.

(B) The Local Food permit shall be available for inspection upon request by the health inspectors of the Louisville Metro Department of Public Health and Wellness.

(C) Appeals. Any applicant whose Local Food permit application is denied may appeal such denial by filing a written appeal to the Director within seven (7) business days stating the specific reasons the order of denial was arbitrary or otherwise not in accordance with this chapter. Within ten (10) business days of receipt of any written appeal, the Director shall issue a written order briefly stating the reasons why the appeal is either granted or denied. Any applicant whose appeal is denied by order of the Director may appeal such order to the Jefferson District Court within twenty (20) days of the order.

SECTION III: LMCO § 118.99 is amended with language identical to Section III in Lou. Metro. Am. Ord. No. 81-2018 (as adopted on 6-7-2018); re adoption is necessary because the effective date of Lou. Metro. Am. Ord. No. 81-2018 is October 5, 2018:

§ 118.99 PENALTY

(A) A violation of this chapter by any owner or operator of a food service establishment, or by any food handler, shall ~~constitute a Class A misdemeanor for which the violator may be fined up to \$500.~~ be classified as a civil offense and enforced through the Code Enforcement Board as provided in §§ 32.275 et seq. The civil penalty for violations of this section is not less than \$25 and no more than \$100 for the offense. If any violation is continued for more than one day, each day upon which such violation occurs or is continued shall be considered and shall constitute a separate offense for which a separate fine may be imposed.

(B) The violation of any regulation promulgated by the Board pursuant to this chapter shall be punishable in accordance with the provisions of KRS § 212.990(3) or any amended or successor statute.

SECTION IV: Pursuant to Lou. Metro. Am. Ord. No. 81-2018 (as adopted on 6-7-2018), civil fines for violation of LMCO 118.08 and 118.09 shall not be assessed until June 7, 2019 with enforcement permissible as of October 5, 2018.

SECTION V: The Ordinance shall take effect after its passage and approval for permits to be issued by the Louisville Metro Department of Public Health and Wellness beginning in January 2019. Board review of the Local Food permit fees begins in 2020.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____