

Ordinance No. 461-2020

By Council Members Brancatelli and Kelley (by departmental request)

FOR PASSAGE
June 3, 2020

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects and the Director of City Planning to establish a temporary program for the use of private parking lots, streets and other public rights-of-way, including on-street parking areas and parklets as outdoor restaurants.

WHEREAS, the World Health Organization, the United States of America, the State of Ohio, Cuyahoga County, and the City of Cleveland each have declared COVID-19 a public health emergency; and

WHEREAS, the City recognizes the economic impact of the COVID-19 crisis on local restaurants; and

WHEREAS, Governor DeWine announced that restaurants may resume outdoor and indoor dining services on May 15, 2020 and May 21, 2020 respectively; and

WHEREAS, under the Governor's order, restaurants that reopen for outdoor and indoor dining services shall follow social distancing requirements; and

WHEREAS, there is a need for additional dining space in order to maintain social distancing for the benefit of the public health, safety and welfare; and

WHEREAS, to stimulate the recovery of the restaurant business in the City and support local restaurants, the City has determined that certain provisions of City ordinances relating to outdoor restaurants should be temporarily modified; and

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

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department and constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety in that the expansion of outdoor dining space is necessary to maintain social distancing, to protect the public health and safety, and to mitigate the impacts of the COVID-19 pandemic on local restaurants; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

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Section 1. That, notwithstanding any codified ordinance to the contrary, the Director of Capital Projects and the Director of City Planning may establish a temporary program for the use of private parking lots, streets and other public rights-of-way, including on-street parking areas and parklets (Temporary Expansion Area), as outdoor restaurants. The duration of the Temporary Expansion Area program shall be from the effective date of this ordinance until no later than November 1, 2020.

Section 2. That, an application for a permit to operate an outdoor restaurant in a Temporary Expansion Area shall be made to the Director of Capital Projects and approved by the Director of Public Health, the Director of Public Safety, the Director of the City Planning Commission, and the Secretary of the Landmarks Commission, as applicable.

Section 3. That, any applicant with an existing outdoor restaurant permit may apply to expand its outdoor restaurant into a Temporary Expansion Area, which application shall be reviewed and approved in the same manner as a new permit under Section 2 of this ordinance.

Section 4. The Director of Capital Projects and the Director of City Planning shall establish rules and regulations for Temporary Expansion Areas, which regulations shall include, but not be limited to, the placement of barriers where the outdoor restaurant is located within a parking lot or within the parking area located in the public right of way, or where alcohol is served.

Section 5. That, Temporary Expansion Area permittees shall be subject to the requirements of Chapter 513 that are not inconsistent with the provisions of this ordinance and the rules and regulations established by the Director of Capital Projects and the Director of City Planning.

Section 6. That, permits issued for a Temporary Expansion Area may be revoked by the Director of Capital Projects at any time for failure to comply with the provisions of this ordinance, the codified ordinances and applicable rules and

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regulations of the City of Cleveland, or laws of the state of Ohio, including Ohio Department of Health orders. The permittee, within 10 days of notice of such revocation, may appeal the decision to the Board of Zoning Appeals.

Section 7. That, the Director of Capital Projects may terminate or alter use or configuration of a Temporary Expansion Area in order to facilitate public or private construction projects, road closures, or any other public purpose.

Section 8. That, at any time, the Director of Capital Projects and the Director of City Planning may re-evaluate the parameters of this program and may make adjustments as they deem necessary to protect the public interest, including, but not limited to, the reduction in Temporary Expansion Areas or the suspension of this program altogether.

Section 9. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

RGC
6/3/2020
FOR: Directors Spronz and Collier

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**REPORT
after second Reading**

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READ FIRST, SECOND AND THIRD TIME

READ FIRST TIME

REPORTS

and referred to

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME on JUNE 3, 2020

PRESIDENT

CITY CLERK

APPROVED

MAYOR