

Ordinance No. 510-2022

By Council Members Bishop, Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects and the Director of City Planning to develop guidelines and authorizing the Director of Capital Projects and issue permits for a temporary program for the use of private or public parking lots, streets and other public rights-of-way, including on-street parking areas and parklets as outdoor restaurants and/or outdoor seating.

WHEREAS, the City recognizes the continued economic impact of the COVID-19 crisis on local restaurants; 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 City has determined that activating the public right-of-way to create opportunities for local businesses and lively public spaces is in alignment with the City's goals of creating vibrant pedestrian-friendly spaces and encouraging economic recovery and expansion; and

WHEREAS, the proposed changes related to outdoor restaurants are temporary in nature until a permanent outdoor dining program is studied and established by spring 2023; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That, notwithstanding any codified ordinance to the contrary, the Director of Capital Projects and the Director of City Planning (Directors) may establish a temporary program for the use of private or public parking lots, streets and other public rights-of-way, including on-street parking areas and parklets, as outdoor restaurants, outdoor seating for restaurants, and/or community public seating, excluding Outdoor Restaurants on sidewalks regulated under Chapter 513 of City of Cleveland codified ordinances (Temporary Expansion Area). The duration of the Temporary Expansion Area program shall be from the effective date of this ordinance until no later than November 1, 2022.

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Section 2. That an application for a permit to operate an outdoor restaurant and/or outdoor seating area in a Temporary Expansion Area shall include proof of insurance, written consent from the adjacent business or property owner if not the applicant, and such other information required under the Rules and Regulations established by the Directors. Application for a permit shall be submitted to the Director of Capital Projects. On approval of an application by the Director of Capital Projects, Director of Public Health, the Director of Public Works, the Director of Public Safety, the Director of the City Planning, and, if applicable, the Secretary of the Landmarks Commission, the Director of Capital Projects or Director of City Planning shall issue a permit in accordance with this ordinance.

Section 3. That an applicant with an existing Outdoor Dining Permit may apply to expand its outdoor restaurant into a Temporary Expansion Area, which application shall be reviewed and approved under the provisions of this ordinance.

Section 4. The Directors shall establish rules and regulations for Temporary Expansion Areas, which regulations shall include, but not be limited to, the placement of appropriate barriers where the outdoor restaurant and/or outdoor seating located within a parking lot or within the parking area located in the public right of way, or where alcohol is served; procedures for applicants to make requests to use City-owned jersey barriers when available, for a fee as established by Board of Control.

Section 5. That the Director of Capital Projects shall charge an application fee of Two Hundred Dollars (\$200.00) for each Temporary Expansion Area for which a permit is desired. If the applicant is not issued a permit, the fee shall be refunded except One Hundred Dollars (\$100.00) for administrative expenses.

Section 6. That all Temporary Expansion Areas are required to be designed, constructed, and conform to applicable provisions and rules of the Americans with Disabilities Act (ADA) Standards for Accessible Design; and other safety design criteria

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deemed necessary by Directors, including but not limited to the following: 1) on-street deck surfaces must be flush to the curb, or otherwise connected by a protected ADA-compliant ramp at 1:12 slope ratio or gentler; and 2) Temporary Expansion Areas do not block fire hydrants.

Section 7. 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 Directors.

Section 8. That permits issued for a Temporary Expansion Area may be suspended or revoked by the Directors at any time for failure to comply with the provisions of this ordinance, the codified ordinances and applicable rules and 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 suspension or revocation, may appeal the decision to the Board of Zoning Appeals.

Section 9. That the City 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 10. That, at any time, the Directors 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 11. 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:nl
5-16-2022
FOR: Interim Director DeRosa and Director Huang

