

EXECUTIVE ORDER

No. 2020-01

TEMPORARY COVID-19 OUTDOOR DINING STANDARDS

WHEREAS the novel coronavirus (COVID-19) is a respiratory disease easily spread from person to person presenting a public health concern that requires extraordinary protective measures and vigilance;

WHEREAS the spread of COVID-19 has resulted in the State of Michigan declaring a State of Emergency under Section 1 of Article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, and the Emergency Powers of the Governor Act, 1945 PA 302, as amended, as evidenced in Executive Order 2020-4 and Executive Order 2020-100;

WHEREAS the City of Pontiac is committed to encouraging economic activity and assisting local businesses impacted by the COVID-19 pandemic to ease back into operation while containing the spread of COVID-19; pursuant to Executive Order 2020-97; and Executive Order 2020-110;

WHEREAS the City of Pontiac seeks to assist and ensure that establishments permitted to open to the public have the ability to accommodate social distancing guidelines currently in force within the State of Michigan; and Executive Order 2020-110 allows restaurants and bars to reopen on June 8, 2020, but Michigan Gov. Gretchen Whitmer has also signed Executive Order 2020-143, closing indoor service at bars whose revenues from alcohol sales exceed 70% throughout most of lower Michigan indefinitely;

WHEREAS to stimulate the recovery of the restaurant business in the City and to support local restaurants, the enforcement of certain provisions of the City's ordinances regulating the serving of food and drink outdoors on private property and public sidewalks should be temporarily suspended, as set forth further herein.

Therefore, pursuant to the authority granted to me by City Charter Section 4.101, *The Mayor*, which designates me as the Chief Executive Officer of the City of Pontiac, and City Ordinance 2.539, *Outdoor Sidewalk and Patio Dining*, which authorizes the City to administratively issue revocable permits for outdoor sidewalk and patio dining, I hereby declare and order that all food and drink establishments lawfully in existence as of the date of this order will be permitted to operate temporary outdoor dining areas in accordance with the following standards:

1. Establishments may add new or expanded outdoor dining areas to compensate for lost interior seating as a result of COVID-19 related restrictions, accommodate social distancing and/or to allow for phased reopening;
2. The addition of new or expanded outdoor dining areas shall not result in an increase to the total number of seats or maximum occupancy of the food and drink establishment as previously approved by the City;

3. The food and drink establishment shall be properly licensed by state and local agencies to perform any activities, sales, and services;
4. Any sales and/or consumption of food and/or alcoholic beverages shall be in compliance with the provisions of any federal, state, and/or local laws and regulations governing same;
5. The food and drink establishment shall comply with all applicable laws relating to litter, noise, and other livability matters. In addition to the foregoing, no amplified music shall be permitted in outdoor dining areas. The City may impose additional conditions or limitations relating to noise on the establishment when such additional conditions or limitations are necessary or appropriate based on the location of the outdoor dining area and the proximity of such area to residential areas;
6. Existing off-street parking areas may be used for outdoor dining, but there must be a physical barrier or separation to protect customers from vehicle traffic, such as bollards or planter boxes;
7. Food and drink establishments located in multi-tenant buildings or on sites with multiple uses may establish outdoor dining areas, only with written permission of the property owner; however, such outdoor dining areas shall generally be located adjacent to or directly in front of the establishment, with limited extension beyond the frontage of the establishment being site specific and dependent on owner permission;
8. An outdoor dining area may be located on a public sidewalk immediately adjacent to the establishment; however, a minimum of 6 feet of unobstructed, pedestrian access along the sidewalk shall be maintained. The City shall not be held liable or responsible for any type of damage, theft, or personal injury which may occur as a result of operating on a public sidewalk;
9. Outdoor dining areas shall not encroach into or interfere with required handicapped parking spaces;
10. Outdoor dining areas shall not interfere with safe pedestrian and vehicular access or access required to be maintained under the Americans with Disabilities Act;
11. Outdoor dining areas shall not encroach within or interfere with fire and other emergency access;
12. If a tent or canopy is to be used it must be fire rated and the fire rating for the tent must be approved prior to erection of same;
13. The City may impose other conditions or limitations on a food and drink establishment to protect against adverse impacts from noise, traffic, parking, or fire, and to protect persons with disabilities;

14. All establishments seeking new or expanded outdoor dining areas in accordance with this Resolution must submit an application for administrative approval by the City. Applications for administrative approval shall include the following information:

- a) A plan view drawing of the proposed outdoor dining area showing all fixtures and furnishings with all distances clearly marked for pedestrian paths and between seating, and including the following:
 1. Reconfigure the layout of the entire outdoor dining area, to the maximum extent practical, to provide a minimum 6 foot wide clear pedestrian walking path adjacent to the dining area;
 2. Reconfigure tables and chairs to allow seating for patrons only in accordance with social distancing guidelines in effect;
 3. Remove all previously approved chairs and other seating that does not meet social distancing guidelines;
 4. Install temporary signage to encourage compliance with social distancing guidelines;
 5. Provide a temporary hand sanitizing station adjacent to the outdoor dining area; and,
 6. Provide a temporary service station outdoors that includes a trash receptacle and disinfecting wipes or other supplies for the cleaning of tables and chairs between patrons and of high touch points in the outdoor dining area.
- b) Written permission from the property owner, if the food and drink establishment is not the property owner; and,
- c) Proof of insurance to include coverage of the new or expanded outdoor dining area.

Food and drink establishment owners/operators are responsible for ensuring that the standards set forth in this Order and any conditions required as part of the administrative approval are followed. The City Planner may deny or revoke any approval granted pursuant to this Order when, in the judgement of the City Planner, the outdoor dining area is non-compliant. Such determinations may be appealed in writing to the Mayor.

15. Plans must comply with the 2015 International Fire Code.

IT IS FURTHER ORDERED that the City of Pontiac will waive all application fees for new or expanded outdoor dining areas permitted in accordance with this Order.

IT IS FURTHER ORDERED that, except as herein specifically provided, all ordinances of the City of Pontiac in effect at the time of the issuance of this Resolution, and as they may be subsequently amended, shall remain in force. Failure to comply with all the ordinances of the City

may result in enforcement action.

IT FURTHER ORDERED that this Order is subject to suspension, modification, or amendment at any time with or without notice based on a determination that additional conditions or limitations shall be required to protect against adverse impacts associated with new or expanded outdoor dining areas. All approvals governed by this Order shall automatically expire on October 31, 2020 at 11:59:59 p.m., unless such approval is otherwise suspended, modified, amended, or extended in accordance with this Order or any subsequent Executive Orders in conflict with or rescinded by the Governor of the State of Michigan.

Deirdre Waterman, Mayor

Date: