

ORDINANCE NO. _____ - 2022

AN ORDINANCE AMENDING SECTION 17-29(5) OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CODE OF ORDINANCES TO EXPAND THE DEFINITION OF "OUTDOOR CAFE" BY REMOVING REFERENCE TO SPECIFIC ZONES; AMENDING SECTIONS 17-29.2 AND 17-29.5 OF THE CODE TO REQUIRE APPROVAL BY THE LEXINGTON AND FAYETTE COUNTY PARKING AUTHORITY FOR ON-STREET PARKING CONTROLLED BY THE AUTHORITY; AND AMENDING SECTION 17-29.5 OF THE CODE TO CLARIFY THAT THE ADMINISTRATOR MAY DENY, REVOKE, SUSPEND, MODIFY, OR CONDITION AN OUTDOOR CAFE PERMIT FOR LEGITIMATE HEALTH, SAFETY, OR GENERAL WELFARE PURPOSES, EFFECTIVE UPON PASSAGE OF COUNCIL.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 17-29(5) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

(5) *Outdoor cafe*: The placing, locating, or permitting of the placing or locating of encroachments or other furnishings on ~~the~~ adjacent right-of-way, such as sidewalks and on-street parking, or public property, ~~adjacent to~~ by a business appropriately licensed to operate as an establishment where food and/or other refreshments are served and that possess a valid permit under Sections 17-29 to 17-29.5 of the Code. [within the B-1, B-2, B-2A and B-2B zones]. [Eating and entertainment establishments located within such zones] Appropriately licensed restaurants and bars are generally qualified to apply for an outdoor cafe permit.

Section 2 – That Section 17-29.2(a)(7) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

(7) Proof of approval by the Lexington and Fayette County Parking Authority, if requesting to use on-street parking controlled by the Authority.

Section 3 – That Section 17-29.5(a) of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

(a) The administrator or designee may deny, revoke, suspend, modify, or condition a permit at any time for any business authorized in the urban county if it is found that:

(1) Any necessary business or health permit has been suspended, revoked, or cancelled.

(2) The permittee does not have insurance in force which is correct and effective in the minimum amount described in section 17-29.2(a)(4).

(3) The permittee has failed to pay any fees required by Lexington and Fayette County Parking Authority for the use of on-street parking locations controlled by the Authority.

(4) ~~[Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of part or all of the permitted area. Such decision shall be based upon findings of~~

~~the administrator that]~~ A legitimate health, safety, or general welfare purpose exists, including, but not limited to, pedestrian or vehicle traffic congestion.

(5) The permittee has failed to erect barriers to the satisfaction of the administrator in order to protect patrons from motor vehicles, if utilizing on-street parking as part of its outdoor cafe.

(6) The permittee has failed to abide by the regulations promulgated by the division of building inspection.

(7) The permittee has failed to correct violations of this article or conditions of their permit upon receipt of the administrator's notice of same delivered in writing to the permittee.

(8) The permittee has failed to take positive actions to prohibit violations from reoccurring.

(9) The permittee has failed to make modifications upon receipt of the administrator's notice of same delivered in writing to the permittee.

Section 4 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL