

Lexington- Fayette Urban County Government Council Meeting

Lexington, Kentucky May 19, 2020

*Due to the COVID-19 pandemic, state of emergency and Governor Beshear's Executive Orders regarding social distancing, this meeting of the Urban County Council is being held via video-teleconference pursuant to Senate Bill 150 (as signed by the Governor on March 30, 2020) and Attorney General Opinion 20-05, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting.*

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on May 19, 2020 at 4:15 p.m. Present were Mayor Gorton in the chair presiding, and the following members of the council: Farmer, Kay, Lamb, McCurn, Moloney, Mossotti, Plomin, Reynolds, Swanson, Worley, Bledsoe, F. Brown, J. Brown, Ellinger, and Evans.

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An Ordinance suspending the enforcement of certain Ordinances and providing the Mayor with the criteria and procedure to temporarily close public streets, to permit the temporary use of parking lots, sidewalks, parks, and closed public streets for outdoor dining and retail in order to better allow individuals and businesses to comply with the social distancing and other health and safety requirements and business reopening requirements issued by the Governor and to slow the spread of COVID 19 within Lexington Fayette County; suspending applicable fees for certain permits; and setting requirements for interested retail businesses and restaurants; effective upon passage of Council until 12:00 am on June 10, 2020 received first reading.

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Mayor Gorton opened the floor for discussion on the ordinance. Ms. Reynolds asked if it was an appropriate time to make an amendment to the ordinance. Mr. Dave Barberie, Dept. of Law, responded.

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Ms. Reynolds motioned to change the end date from June 10, 2020 to June 24, 2020, in order to allocate more time for restaurants to adapt to the new procedures. Mr. Ellinger seconded.

Ms. Lamb asked for factors involved in the administration's decision to set the original expiration date for June 10<sup>th</sup>, as well as Ms. Reynolds' decision to propose June 24<sup>th</sup>. Project Management Director, Brandi Peacher, Mayor's Office, responded and explained that the June 10<sup>th</sup> date was a starting point and could be extended as needed. Ms. Reynolds responded and cited concerns from local restaurateurs over potential time delays due to application processes and the initial setup required for restaurants. Ms. Lamb spoke in opposition of the amendment and noted she had additional comments and questions pertaining to the original ordinance.

Mr. J. Brown concurred with Ms. Lamb's comments and thanked Ms. Reynolds for her explanation. He spoke in opposition of the amendment.

Ms. Evans asked Ms. Reynolds about the timeline issues with the June 10<sup>th</sup> date. Ms. Reynolds elucidated that three weeks was a very narrow window for restaurants to submit and have applications, furnish the outdoor areas and still provide enough time to determine if the setup benefits both the restaurants and the city. Ms. Evans noted she had additional comments and questions pertaining to the original ordinance.

Mr. Moloney spoke in opposition of the amendment stating Governor Beshear and several health officials will be monitoring the economic sectors reopening. He commented that the state officials monitoring the pandemic should determine whether or not to extend the trial period.

Ms. Bledsoe spoke in support of the amendment. She stated that because restaurateurs were being asked to make investments upfront in order to reopen in compliance with state restrictions, extending the date would allow for a better chance to recoup those initial expenses.

Mr. Farmer acknowledged his possible support of the amendment but expressed his predilection to Council procedures and desire to discuss the ordinance in its original form prior to considering an amendment.

Mr. Worley spoke in support of the amendment. He stated that the time extension would help local businesses and he thanked Ms. Reynolds for bringing the amendment forward.

Mr. Ellinger conveyed the thoughts and concerns about the ordinance as expressed by members of Mayor Gorton's COVID-19 Economic Response Committee, Restaurants & Bars Subcommittee. He spoke in support of the amendment.

Mr. Swanson asked why the administration chose the date of June 10<sup>th</sup> and if they had any concerns with the proposed extended date. Dir. Peacher responded.

Vice Mayor Kay spoke in support of the amendment.

Mr. Moloney concurred with Mr. Farmer. He requested clarification on the administration's stance on the original date chosen. Mayor Gorton addressed Mr. Moloney's concerns, explicating that they had intended to be conservative in ending the initial trial period, as this will be the first time restaurants have been open to the public in several months.

Ms. Reynolds withdrew her motion to amend. Mr. Ellinger withdrew his second.

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Mayor Gorton opened up the floor for discussion on the ordinance.

Mr. J. Brown thanked Ms. Reynolds for withdrawing the motion. He asked Dir. Peacher which streets would be closed and which restaurants had applied to extend their outdoor seating. Dir. Peacher stated that no applications had been received since the ordinance was not yet in effect, but alluded to potential consideration of closures on Short St., Jefferson St., and North Limestone St. Mr. J. Brown asked which categories of streets would be considered for closure. Dir. Peacher explained there were many facets of the ordinance, but that there were no restrictions on the types of streets. Mr. J. Brown inquired about the public notification process for street closures pursuant to the ordinance, and if the streets would only be closed during hours of operation. Dir. Peacher stated sidewalks would not have a public notification, and those closures could be limited to the hours of operation. She said there was no notification plan for street closures or on-street parking in the ordinance, but during the application process, the city would work with applicants to notify adjacent property owners and businesses, as well as coordinating with the Div.

of Traffic Engineering to communicate lane or road closures. Mr. J. Brown indicated reconsidering his stance on the prior amendment.

Ms. Evans asked Dir. Peacher about notification to the public about street closures. Dir. Peacher clarified that the intent of street closures was to close a street only when multiple restaurants in a particular area applied for the extension and not to close a street for a single restaurant. She explained they would be looking at the districtwide need for closure. Ms. Evans inquired as to why the administration chose to enact this trial run citywide instead of focusing on a specific district or area. Dir. Peacher responded, stating that they did not want to proactively close a street where restaurants would not be needing the extended space. Ms. Evans spoke in opposition of the prior amendment.

Ms. Mossotti asked how this ordinance affects the 33% capacity limit as mandated by the Governor. Dir. Peacher stated it would not impact the 33% capacity guideline, as that guideline regulates indoor seating and not outdoor seating. Ms. Mossotti clarified that extended seating pursuant to the ordinance would be in addition to the 33% capacity limit. Dir. Peacher confirmed that was correct.

Ms. Lamb declared her general support to assist local restaurants reestablish their patronage and finances. She inquired about the city staff on hand to assist restaurants through this process. Dir. Peacher elucidated that seating extended on sidewalks or private property would not require applications nor any oversight from LFUCG during the time the ordinance is enacted, though they will be required to adhere to social distancing guidelines and other safety requirements included in the ordinance. She went on to explain that on-street parking and street closure applications would be processed through the Mayor's Office. Ms. Lamb requested Dir. Peacher to expound on the use of parks as referenced in the ordinance. Dir. Peacher noted that a restaurant may submit an application to the Div. of Parks and Recreation to expand seating onto an immediately adjacent park. She provided the examples of Panera Bread and Athenian Grill restaurants located next to Phoenix Park and Nate's Coffee located next to Cheapside Park.

Mr. Farmer requested a full overview of what the ordinance entailed. Dir. Peacher reviewed a PowerPoint presentation (Exhibit A). Mr. Farmer inquired about the usage of the parking spaces deemed for "Pickup/Delivery only" which were ascertained when restaurants closed to the public. Dir. Peacher responded they could still submit an

application for those spots and they would be reviewed on a case-by-case basis. Mr. Farmer asked about street closures in the event of conflicting desires of the businesses. Dir. Peacher explained the applications would be reviewed on a case-by-case basis, but decisions would be made with consideration to the entire street.

Mr. McCurn inquired if partial lane closures would be allowed on a case-by-case basis. Dir. Peacher confirmed they would. Mr. McCurn asked how the speed limit and other traffic changes would be communicated in the areas. Dir. Peacher stated the expanded area on-street parking would only be utilized on streets with a speed limit of 25 mph or less. She commented that the Div. of Traffic Engineering would handle the signage for these areas. Mr. McCurn asked about the turnaround time for approval of applications. Dir. Peacher responded they were aiming for a turnaround time in a couple days, but there was no timeframe indicated in the ordinance.

Mr. Moloney asked how handicapped parking spots would be affected both on-street and in parking lots. Dir. Peacher clarified that handicapped parking spots are prohibited from being utilized as extended seating. Mr. Moloney requested further clarification on street closures. Dir. Peacher stated the administration wanted to keep the options flexible and will consider only closing streets for short durations at the request of businesses, such as only weekend evenings, or only during the hours of operation. Mr. Moloney spoke in opposition of the prior amendment.

Ms. Mossotti spoke about the time cost of the application turnaround, in addition to potential bad weather risks, and noted that three weeks was not enough time for the restaurants to garner adequate results. She asked about the enforcement of social distancing guidelines in restaurants. Dir. Peacher stated that enforcement of social distancing guidelines were not included in the ordinance, but that the Lexington-Fayette County Health Department would be monitoring businesses throughout the county as needed.

Mayor Gorton spoke about the eagerness of many local restauranteurs to comply with social distancing guidelines in order to open their businesses again.

Ms. Evans thanked Dir. Peacher for the presentation. She spoke about concerns with social distancing compliance in restaurants and other public businesses.

Commissioner Susan Speckert, Dept. of Law, explained that enforcement of compliance issues will be complaint driven.

Mr. Swanson thanked the administration for the quick construction of this ordinance and commented that the ordinance did not introduce new issues for the city to enforce, only expanded the number of seats.

Ms. Reynolds commented that she had been contacted by a local restaurateur who requested expanded outdoor seating and that she felt the extra seating would be very beneficial to restaurants.

Ms. Reynolds motioned to change the end date from June 10, 2020 to June 24, 2020, in order to allocate more time for restaurants to adapt to the new procedures. Mr. Ellinger seconded. The motion was approved by majority vote (Mr. Moloney and Ms. Evans voted no; Mr. Farmer abstained).

Ms. Plomin spoke in support of the amendment.

Mayor Gorton commented that Gov. Beshear would be monitoring restaurant reopenings throughout the state very carefully and would reinstate closures if a spike in cases were to occur.

Comm. Speckert advised that the amendment was a material change and would require a new first reading.

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Ms. Bledsoe suggested having a firm 48 hour turnaround on applications and thanked Mayor Gorton, Mary Quinn Ramer, President of VisitLEX, and the many others

involved in reopening Lexington's economy and simultaneously protecting the public health.

Ms. Lamb brought up a question received from a constituent on North Limestone St. Dir. Peacher responded.

Upon motion by Mr. Worley, seconded by Mr. Farmer, and approved by unanimous vote, the rules were suspended and the ordinance received second reading.

Upon motion by Mr. Farmer, and seconded by Mr. Ellinger, the ordinance was approved by the following vote:

Aye: Farmer, Kay, Lamb, McCurn, Moloney, -----15  
Mossotti, Plomin, Reynolds, Swanson,  
Worley, Bledsoe, F. Brown, J. Brown,  
Ellinger, Evans

Nay: -----0

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Mayor Gorton thanked the Council for their patience and support of the ordinance.

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Upon motion by Ms. Bledsoe, seconded by Vice Mayor Kay and approved by unanimous vote, the meeting adjourned at 5:30 p.m.

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Deputy Clerk of the Urban County Council