

ORDINANCE NO. O-15-2021

AN ORDINANCE OF THE CITY OF FORT THOMAS, CAMPBELL COUNTY, KENTUCKY, REGULATING THE PLACEMENT OF TABLES, CHAIRS AND OUTDOOR FURNISHINGS FOR THE PURPOSE OF OUTDOOR DINING ON THE PUBLIC SIDEWALKS, AND REPEALING ORDINANCE O-02-2007 IN ITS ENTIRETY.

WHEREAS, on February 5, 2007 the City of Fort Thomas enacted an ordinance regulating outdoor dining on the public sidewalks; and

WHEREAS, the city has received requests from interested parties to amend the outdoor dining regulations by extending the permitted hours of outdoor dining on public sidewalks and to eliminate the requirement that alcoholic beverages be served or consumed only when accompanied by the serving or consuming of food during the same business transaction; and

WHEREAS, consistent with the goals and objectives of the city's Comprehensive Plan relating to commercial uses and services, the Board of Council of the City of Fort Thomas desires to amend the regulations pertaining to outdoor dining on public sidewalks to enhance the city's multiple commercial districts, to strengthen the economic viability of the city's commercial districts, to encourage residents and others to use local businesses and support their growth, and to advance the city's overall economic development goals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT THOMAS, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

That Section 97.11 be and the same is hereby repealed and replaced with the following language:

§ 97.11 PLACEMENT OF TABLES, CHAIRS AND OUTDOOR FURNISHINGS FOR PURPOSE OF OUTDOOR DINING ON A PUBLIC SIDEWALK.

That individuals or businesses may place tables, chairs and outdoor furnishings on a Public Sidewalk for the purpose of Outdoor Dining in conjunction with the operation of a licensed business establishment after obtaining an Outdoor Dining Permit from the city and complying with the regulations contained hereinbelow.

(A) Definitions. Notwithstanding other definitions within this subchapter, the following definitions shall only apply to the provisions of this subchapter:

1. **OUTDOOR DINING.** The placement of tables, chairs and outdoor furnishings on a Public Sidewalk for the purpose of serving food or drink to customers in conjunction with the issuance of an Outdoor Dining Permit to a licensed business establishments.
2. **OUTDOOR DINING PERMIT.** A permit issued by the city, through the City Administrative Officer or his designee, which authorizes a licensed business establishment to place tables, chairs and outdoor furnishings on a Public Sidewalk for the purpose of serving food or drink to customers.
3. **OUTDOOR DINING AREA.** The area of the Public Sidewalk defined by a site plan approved by the city which shows the number and type of tables, chairs and outdoor furnishings and their location.
4. **PERMITEE.** A person, organization, proprietorship, partnership, corporation or other similar entity which has been issued an Outdoor Dining Permit.
5. **PUBLIC SIDEWALK.** Land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for, dedicated to and improved for the general public for pedestrian walkway purposes which is directly adjacent to a licensed business establishment of a Permittee.

(B) Permit Required. An Outdoor Dining Permit, which is a revocable permit, shall be required for any tables, chairs, benches or other appurtenances placed on a Public Sidewalk for the purpose of outdoor dining. The City Administrative Officer, or his designee, shall issue said permit upon finding that all standards and requirements of this section have been met. The Outdoor Dining Permit shall contain, at a minimum, the following information:

1. The name of the applicant, including the type of organization (i.e., proprietorship, partnership, corporation, etc.);
2. The address of the applicant;
3. Certification that the applicant is the owner of the property abutting the Public Sidewalk or if a tenant of the property, a certification of ownership from the tenant's landlord must be submitted along with the owner's written consent to the request for an Outdoor Dining Permit;
4. A site plan showing the number and type of tables, chairs and outdoor furnishings and their proposed location, and the width of the Public Sidewalk where the tables, chairs and outdoor furnishings are proposed to be located. If located within the CBD Zoning District, the City's design review procedures shall also apply;
5. A release and indemnification form executed by the applicant releasing and indemnifying the City of Fort Thomas from personal injury and property damage liability resulting from the use of the Outdoor Dining Area on the Public Sidewalk; and releasing and indemnifying the City of Fort Thomas from property damage liability to any outdoor furnishings placed on the Public Sidewalk;

6. A certificate of liability insurance with coverage limits acceptable to the City and naming the City as an additional insured party for injuries or damages occurring on said Public Sidewalk;
7. Any other information required by the City Administrative Officer or his designee to properly administer the intent of this ordinance; and

The cost of the Outdoor Dining Permit for each table shall be ten dollars (\$10) subject to automatic renewal on an annual basis at no additional charge. Notwithstanding, if Permittee does not operate an Outdoor Dining Area for one year, the Outdoor Dining Permit shall be deemed to have expired and a new Outdoor Dining Permit shall be obtained prior to serving food or beverage on the Public Sidewalk.

The Permittee shall notify all employees of the licensed business establishment of the restrictions of the Outdoor Dining Ordinance and shall post a copy of same in a conspicuous place within the licensed business establishment.

(C) Hours and Times of Operation. The following times and hours of operation shall be met for the establishment of an Outdoor Dining Area:

1. Outdoor Dining, in conjunction with the issuance of an Outdoor Dining Permit by the city, shall be permitted until 11:00 P.M. daily Sunday through Thursday evenings; and shall be permitted until 12:00 midnight Friday and Saturday evenings, unless permission is granted by the City Administrative Officer or his designee, upon special request, as it pertains to special events or other reasonable exceptions.

(D) Standards. The following standards shall apply to an Outdoor Dining Area:

1. The Outdoor Dining Area shall only be located in an area that does not unreasonably impede the flow of pedestrian traffic on the Public Sidewalk. Tables, chairs and outdoor furnishings shall be placed in a manner that does not reduce the clear width of the Public Sidewalk for pedestrian movement below a minimum of four (4) feet. In addition, the city may require the applicant to install a physical separation to denote the edge of the Outdoor Dining Area from the Public Sidewalk to allow for pedestrian movement, such methods may include but are not limited to roping, walls, fencing and planter boxes, as approved by the City Administrative Officer or his designee.
2. Alcoholic beverages shall be served or consumed only on the portion of the Public Sidewalk as defined by city ordinance O-06-2021 for the Entertainment Destination Center.
3. A Permittee shall prevent unreasonable levels of noise to emanate from the Outdoor Dining area or from within the licensed business establishment, where such noise is of such intensity or duration that it disturbs the quiet, peace or repose of individuals in the vicinity.
4. Excessive noise shall not be generated from the Outdoor Dining Area, especially for those areas in close proximity to residential properties.

5. Outside speakers or amplified sounds from inside the restaurant shall not be permitted to extend beyond the range of the approved outdoor dining area
6. Umbrellas used in conjunction with outdoor dining shall be properly maintained; with no frayed edges or faded surfaces.
7. Signs shall not be placed in the Outside Dining Area except those signs which are permitted by city ordinance.
8. Food preparation or cooking shall not occur within the Outdoor Dining Area or on the Public Sidewalk.
9. Portable heaters or heating devices of any type placed within the Outdoor Dining Area or on the Public Sidewalk shall be UL listed, self-contained units, with no open flames. Units must be disabled by 11:00 on weekdays and midnight on Friday and Saturday evenings.

(E) Maintenance. The following standards shall be met for the maintenance of an outdoor dining area within a public right-of-way

1. The Outdoor Dining Area and the adjoining curb, gutter and Public Sidewalk shall be maintained in clean and orderly condition at all times, regardless of the source of the litter or debris.

(F) Revocation of Permit. A Permit may be revoked by the city upon finding by the City Administrative Officer or his designee that the applicant has violated any terms of this ordinance or has failed to abide by the commitments made in the application, and after ten (10) days written notice to the permit holder by the city. The Permittee may appeal this revocation to the City Administrative Officer within thirty (30) days of receipt of the notice of revocation.

(G) Penalty. A person who violates any provision of § 97.11 shall, upon conviction, be fined not less than \$50 nor more than \$250. Each violation and each day shall constitute a separate offense.

SECTION II

Ordinance O-02-2007, passed and adopted February 5, 2007 relating to Outdoor Dining Areas, is repealed in its entirety.

SECTION III

All ordinances, resolutions or parts thereof, in conflict with the provisions of this ordinance, are to the extent of such conflict, hereby repealed.

SECTION IV

The provisions of this Ordinance are severable. If any provision, section, paragraph, or part thereof be held invalid, such decision shall not affect or impair the validity of the remainder of this Ordinance.

SECTION V

This Ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

APPROVED:

Eric Haas, Mayor

1st Reading: September 7, 2021

2nd Reading: September 20, 2021

Publication: September 30, 2021

ATTEST:

Melissa K. Beckett, City Clerk