

**MAYORAL EMERGENCY ORDER REGARDING
OUTDOOR RESTAURANT SEATING DURING STATE OF CIVIL EMERGENCY**

WHEREAS:

1. The Governor has declared a state of emergency exists due to the COVID-19 pandemic and has issued executive orders that limit certain personal and business activities and, which, more recently, allow the resumption of some previously curtailed activities, subject to certain continuing precautions.
2. Many thousands of Michiganders have tested positive for the COVID-19 virus and thousands have succumbed to it, with thousands of COVID-19 virus cases occurring in Kent County.
3. A proclamation of civil emergency was issued for Wyoming due to the COVID-19 pandemic.
4. The Michigan Liquor Control Commission ("LCC") recently provided liquor licensees new flexibility for outdoor on-site consumption and pending state legislation may also allow that flexibility.
5. However, existing city regulation may inhibit businesses seeking to use the added state regulatory flexibility from effectively doing so.
6. To be financially feasible local restaurants need to quickly adapt to safely operate and serve patrons during the COVID-19 pandemic and in accordance with newer state regulation.

THEREFORE:

Under the authority provided the Mayor under Chapter 46, Article IV of the Code of Ordinances, Wyoming, Michigan, I order the following with respect to outdoor seating for restaurants, bars, taverns and other establishments serving food for on-premises consumption with or without alcoholic drinks for on-premises consumption ("on-premises establishments") in the City of Wyoming during the time that, due to the COVID-19 pandemic, state executive orders, or state laws or regulations, limit inside seating to numbers of patrons or tables less than those allowed prior to that pandemic.

1. On-premises establishments may use sidewalks, parking lots, or other outdoor areas within 25 ft of the principal building as temporary seating areas after review and approval under this order.
2. The review shall be initiated by submitting an application for development plan review with the City's planning office accompanied by the following information. (An applicant may, and is encouraged to, seek preliminary consultation with planning staff, the Fire Marshal, or other appropriate City staff before preparing an application to ascertain what outdoor seating concepts or concerns may apply to its on-premises business and location. Staff can be reached at plan_info@wyomingmi.gov or 616.530.7258.)
 - A. No fee is required for this review and approval.
 - B. A plan, drawing or aerial photo (such as from a Google map) that shows the following information:
 1. Information stating (i) the name and address of the establishment, (ii) the name address, telephone number and e-mail address of the person(s) preparing the drawing, (iii) the name address, telephone number and e-mail address of the person(s) representing the applicant, (iv) the date(s) of the plan and any revisions (month, day, year), and (v) the page number/total number of pages.
 2. A reasonable scale and north arrow.



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

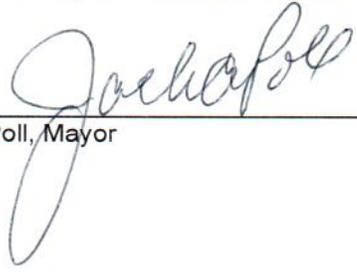
Robert Postema

Sam Bolt

Jack A. Poll, Mayor

3. Existing lot lines, building footprints with entrances and exits labeled, structures, fences, signs, driveways, parking areas and other site improvements.
 4. The proposed outdoor seating area(s), access routes for patrons and servers, and any outdoor service or food stations.
 5. The proposed layout of tables, chairs, umbrellas, tents, heaters, waste receptacles and any other items to be within the proposed seating area and details about any proposed fencing, bollards, roping or other demarcation of the seating area.
- C. A narrative explaining in detail:
1. Occupancy including the original (pre-pandemic) inside occupancy, the inside occupancy as limited by pandemic-related executive orders or other regulation, and the proposed temporary outdoor space capacity. Total permitted occupancy including inside and outside areas must not exceed the total inside and outside occupancy prior to the COVID-19 pandemic.
 2. If parking areas are proposed for outdoor seating, how access will be maintained, how any loss of parking may affect needs for parking, and, if needed, how the lost parking will be addressed. If the parking area is shared, an explanation how the loss of parking will or will not affect those who share it and, if City planning staff believes it necessary, the consent of those who share the parking area to the planned use of the parking area.
- D. If the applicant is not the property owner, the written consent of the property owner.
- E. If LCC approval is needed, evidence of that approval or of the application for that approval and use of a *"Limited Permanent Outdoor Service Area Permission Application."*
- F. A severe weather plan.
3. City planning staff, in consultation with such other City personnel that the planning staff deems necessary, will review the application for compliance with this order and with any requirements not suspended by this order. That review shall be conducted, and the application approved, approved with conditions needed to ensure compliance with this order and any local requirements not suspended by this order, or denied, reasonably promptly with Planning staff working its assigned work schedule.
4. Temporary outdoor seating under this order shall comply with the following:
- A. ADA access and other requirements.
 - B. Any changes in or the use of driveways, drive aisles, and parking areas must still provide for safe site access, preserve driver site lines, and otherwise meet reasonable requirements for vehicular and pedestrian use.
 - C. Fire and other emergency access lanes including turn radii for building and access to fire hydrants must be maintained.
 - D. The building maximum occupancy and approved maximum occupancy for the outside seating area must be posted and maintained.
 - E. Enclosed spaces must have proper aisles and exits. If any outside seating area is to be used at dusk or later, proper lighting (including emergency lighting) must be provided to ensure safe exiting.
 - F. No outside fires or other cooking is permitted.
 - G. No permanent fencing, structures (including decking) are permitted. The temporary outside seating area may only be constructed with temporary materials.
 - H. All outside furniture and other objects, not including tents, used for the outdoor seating area must be safely stored and removed from public or private rights-of-way or drive isles when the outdoor seating area is not in use.
 - I. Any tents or other temporary "structure" must comply with fire and building codes. The use of any tent will require a tent permit and inspection, though no fee will be charged.

- J. No amplified sound or entertainment can be used in the outside seating areas.
 - K. Each application for each proposed location will be reviewed in the context of its unique circumstances. While this list serves as a guide, additional requirements and submittals may be required to ensure public health and safety.
5. Any city requirements for temporary outdoor seating areas that conflict with this order are, to the extent of that conflict, suspended while this order is in effect.
 6. This order shall remain in effect until the earliest of any of the following:
 - A. 30 days after the date of this order, unless extended by a resolution of the Wyoming City Council.
 - B. If rescinded by resolution of the Wyoming City Council, on the date stated in that resolution.
 - C. By a subsequent mayoral order rescinding or superseding this order.
 - D. When the proclaimed local civil emergency related to the COVID-19 pandemic expires or is otherwise terminated.
 - E. When the declaration of state emergency related to the COVID-19 pandemic expires or is otherwise terminated or when all state executive orders limiting inside occupancy of on-premises businesses expire or are otherwise terminated.
 - F. When any court of competent jurisdiction determines that the proclamation of local civil emergency or this order is invalid or that the declaration of state emergency or state executive orders limiting inside occupancy of on-premises businesses are invalid and all appeals have concluded.
 7. All outdoor seating, property uses, and property alterations allowed pursuant to this order will no longer be permitted, and must be discontinued and removed upon the expiration, rescission or other termination of this order.
 8. A violation of this order is a misdemeanor punishable as provided in section 1-26 of the Code of Ordinances, City of Wyoming, Michigan.
 9. This order shall take immediate effect.
 10. A copy of this order shall be promptly disseminated by media releases, posting on the City's website and in other ways deemed appropriate by the City Manager.



Jack A. Poll, Mayor

Date: June 4, 2020