

RESOLUTION NO. 103-2023 (PD)

By Mayor Seren

A Resolution authorizing, on a temporary basis, the extension of a permit program for the establishment or expansion of outdoor dining facilities on private property, public property or right-of-way and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, on March 16, 2020, by way of Resolution No. 22-2020, this Council declared the existence of a local emergency due to the outbreak of COVID-19 within the State of Ohio and County of Cuyahoga; and

WHEREAS, this Council subsequently adopted Resolution 83-2020, authorizing a Temporary Expansion Area program for the creation or expansion of outdoor dining, entertainment and retail areas to assist local restaurant, entertainment and hospitality businesses in safely serving the public during the pandemic, which program this Council later extended; and

WHEREAS, the City and this Council have received positive feedback from merchants, residents, and customers about the outdoor dining and entertainment options permitted under the program; and

WHEREAS, this Council recognizes that bars, restaurants and other businesses located within the City continue to struggle with the negative economic impacts of the pandemic, and wishes to alleviate some of that burden by allowing for the continued expanded use of outdoor areas by such businesses; and

WHEREAS, the City of Cleveland Heights recognizes that restaurants and other businesses are critical to the vibrancy and character of Cleveland Heights and its commercial districts and that to ensure that our local businesses remain successful, and that the public feels safe patronizing them, the City should provide for such businesses to provide outdoor dining and entertainment spaces on a permanent basis; and

WHEREAS, at the Mayor's request, the City administration has developed a Shared Spaces Program and Manual to govern the establishment, permitting and operation of expanded, flexible and creative outdoor dining and entertainment spaces, which is available at: <https://www.clevelandheights.gov/1522/Shared-Spaces-Program>; and

WHEREAS, in conjunction with the Department of Planning and Development, this Council is in the process of updating the Zoning Code and other City regulations to provide for the flexibility available under the Shared Spaces Program and Manual on a permanent basis; and

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WHEREAS, given that the process of updating the aforementioned ordinances and regulations involves referral of Zoning Code amendments to the City Planning Commission, as well as a public hearing, this Council wishes to authorize the continued permitting of expanded outdoor dining and entertainment spaces and options within the City during 2023, in accordance with the terms and provisions of the Shared Spaces Program Manual.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor and his designees (collectively, "Mayor"), including without limitation the Director of Planning and Development and the Director of Public Works, are hereby authorized to operate a temporary, seasonal program for the creation or expansion of outdoor dining, entertainment and retail areas by permitting use of private property such as private parking lots, as well as City-owned property and public rights-of-way, including parking areas, sidewalks, and parklets, pursuant to and in accordance with the Shared Spaces Program and Manual on file with the Director of Planning and Development and incorporated herein by reference, as the same may be updated from time to time, through November 1, 2023.

SECTION 2. This Council hereby authorizes the Mayor to temporarily waive or modify the requirements of the Cleveland Heights Codified Ordinances, including Sections 110.05, 311.02, 351.04, 351.11, 371.05, 521.05, 521.07, 1115.02, 1115.08, 1115.12, 1131.02, 1131.11, 1131.14, 1153.03, 1153.05, 1165.07, and 1321.01, as necessary, in order to expand outdoor/seasonal dining, entertainment, and retail opportunities in 2023 through the Shared Spaces Program.

SECTION 3. The Director of Planning and Development or their designee shall review and may administratively approve applications for permits for Shared Spaces on private property and will coordinate review with the Public Works, Police, and Fire Departments, as applicable. Review of a Shared Spaces application will include consideration of whether the issuance of the permit would negatively impact abutting residential neighborhoods.

SECTION 4. The Director of Public Works or their designee shall review and may administratively approve applications for permits for Shared Spaces within the public right-of-way or on public property and will coordinate review with the Planning and Development, Police, and Fire Departments, as applicable. Review of a Shared Spaces application will include consideration of whether the issuance of the permit would negatively impact abutting residential neighborhoods.

SECTION 5. The application for a Shared Spaces permit shall not require detailed architectural drawings and will not be subject to review by the Architectural Board of Review.

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SECTION 6. Outdoor entertainment or the use of speakers may be permitted within a Shared Space; provided, however, that outdoor entertainment or speakers must not violate the City's noise ordinance and must be installed, operated and/or conducted in a manner that will minimize intrusion into neighboring properties or adverse community impacts.

SECTION 7. The applicant for a Shared Spaces permit may request permission to use the area until a specific hour. The hours permitted shall be specified in the permit, but in no event shall such area be used after 10:00 p.m.

SECTION 8. Where a Shared Space will extend into or occupy any public property or public right-of-way, the owner of the facility must obtain and maintain throughout the duration of the permit, a General Liability insurance policy in the amount of \$1 million per occurrence, in a form approved by the Director of Law, and must provide the City with a Certificate of Insurance naming the City as the certificate holder and as an additional insured.

SECTION 9. A Shared Spaces permit may be terminated by the Mayor if any requirements/conditions are not followed and/or if the property is the subject of multiple complaints. Within 10 days of provision of written notice of such termination, the permittee may appeal such termination decision to the Cleveland Heights Planning Commission, which shall hold a public hearing within 30 days of the appeal and either uphold or deny the appeal.

SECTION 10. Upon 48 hours written notice, the Mayor may terminate or modify a Shared Space permit, in order to facilitate a public improvement project or road closure or other proper public purpose. In the event of an emergency, less advance notice, or notice of the need for immediate permit termination or modification, may be provided.

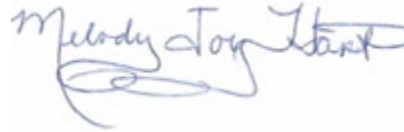
SECTION 11. The City may terminate or modify the Shared Spaces program as necessary to advance the public interest, with such notice as is practicable under the circumstances.

SECTION 12. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 13. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of public peace, health, safety and welfare of the inhabitants of the City of Cleveland Heights, such emergency being the need to provide for expanded permitting of outdoor dining and entertainment options for businesses during the 2023 warm weather season. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately

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upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



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MELODY JOY HART  
President of Council



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ADDIE BALESTER  
Clerk of Council

PASSED: 06/05/2023

Presented to Mayor: 06/06/2023

Approved: 06/15/2023



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KAHLIL SEREN  
Mayor