

City of Henderson, Kentucky
NOTICE OF SPECIAL CALLED MEETING
FOR TUESDAY, MAY 19, 2020
BEGINNING AT 3:00 P.M.

May 15, 2020

Commissioner Patti Bugg
Commissioner X R. Royster, III
Commissioner Bradley S. Staton
Commissioner Austin P. Vowels

Dear Board Members:

As a result of the state of emergency declared by the President of the United States and the Governor of Kentucky due to the global COVID-19 pandemic, and in accordance with recommended and mandated precautions related to COVID-19, Kentucky Opinion of the Attorney General 20-05, and SB 150 the following Meeting Notice is issued:

Please take notice that as Mayor of the City of Henderson, Kentucky, I hereby call a special called meeting of the Board of Commissioners to be held on **Tuesday, May 12, 2020, at 3:00 p.m.**, in the third floor assembly room, 222 First Street, Henderson, Kentucky. **Public attendance will not be permitted at this meeting** due to the highly contagious nature of COVID-19, it is not feasible for the City to maintain order and abide by recommended and mandated precautions while providing a central physical location for public viewing. The meeting will be broadcast on Zoom (call in number / webinar ID – 1 312 626 6799 / 815 4198 4555 Password: 8311200) or <https://us02web.zoom.us/j/81541984555> Password: 8311200; broadcast on cable Spectrum Channel 200; and live streamed on the city's website: <https://www.cityofhendersonky.org/CivicMedia>.

The purpose of this called meeting is for the following:

1. Roll Call:
2. Municipal Order:

Municipal Order Approving the Placement of Tables, Chairs and Other items on City of Henderson Parking Spaces Adjacent to Restaurants and Taverns Through August 1, 2020

3. Adjournment

Respectfully,

Steve Austin, Mayor

A copy of the foregoing notice received, and service thereof waived this 19th day of May 2020.

Commissioner Patti Bugg

Commissioner Bradley S. Staton

Commissioner X R. Royster III

Commissioner Austin P. Vowels

City Commission Memorandum
20-75

May 15, 2020

TO: Mayor Steve Austin and the Board of Commissioners

FROM: William L. "Buzzy" Newman, Jr., City Manager *BN/MA*

SUBJECT: Temporary Use of City Right-of-Way in Central Business District

The enclosed municipal order approves the placement of tables, chairs and other items on City parking spaces adjacent to restaurants and taverns in the Central Business District through August 1, 2020.

As discussed at the May 12, 2020 special called meeting, the proposed changes are to support and assist Henderson restaurants in the Central Business District as they reopen under the governor's new guidelines and restrictions of social distancing and dining room capacity of only thirty-three percent (33%). The municipal order allows for the city manager will to develop specific guidelines and regulations for this permitted use.

The municipal order will expire at 11:00 p.m. on Saturday, August 1, 2020 unless further action is taken by the Board.

Your approval of the attached municipal order is requested.

c: Ray Nix
Heath Cox
Scott Foreman
Dylan Ward
Brian Williams
Doug Boom
Brenda Wethington

MUNICIPAL ORDER _____

MUNICIPAL ORDER APPROVING THE PLACEMENT OF TABLES, CHAIRS AND OTHER ITEMS ON CITY OF HENDERSON PARKING SPACES ADJACENT TO RESTAURANTS AND TAVERNS THROUGH AUGUST 1, 2020.

WHEREAS, on March 6, 2020, Governor Andy Beshear declared a state of emergency in the Commonwealth of Kentucky due to the COVID-19 pandemic, and the emergency restrictions throttled retail food and beverage establishments ability to conduct business in order to protect the public from exposure to Coronavirus; and

WHEREAS, the Mayor of the City of Henderson declared a State of Emergency on March 16, 2020 (Executive Order 01-20) based upon the COVID-19 virus outbreak; and

WHEREAS, Governor Beshear is now phasing in new guidelines to reopen businesses, and has indicated that restaurants can reopen their dining rooms at only thirty-three percent (33%) capacity as soon as May 22, 2020; and

WHEREAS, the Commission desires to support and assist Henderson restaurants and taverns so that they may increase their sales, provide food and drink to their patrons, and produce revenue and jobs to help the local economy.

NOW, THEREFORE, BE IT ORDERED, by the City of Henderson that restaurants and taverns in the Central Business District will be allowed to obtain a temporary encroachment permit to place tables, chairs and other items in designated parking spaces adjacent to their establishments in accordance with Governor Beshear's authority and guidelines for restaurants and taverns to reopen upon the following conditions:

- (1) Inclusion of a release and indemnification provision releasing and indemnifying the city from personal injury and property damage liability resulting from the use of the tables and seating and sidewalk and parking spaces in the permitted area;
- (2) Certification that the applicant will inspect and report to public works in a timely manner any defects in the permitted area.
- (3) The business, at its sole expense, shall maintain comprehensive general liability insurance, protecting against all claims for personal injury, death or property damage occurring upon, in or about the premises resulting from the use of occupancy thereof, with a minimum of \$1,000,000 (one million dollars) in coverage and limits acceptable to the city for the entire term of the Encroachment agreement insurance rated and any extension thereof. The city must be named in this policy as an additional insured entity. Further, if the business serves alcohol, then the business must have liquor liability insurance with a minimum of \$1,000,000 (one million dollars). The city must also be named in this policy as an additional insured entity. The business shall include copies of all policies of insurance with evidence of the payment of the premiums thereon with his, her or its application. The Applicant shall deliver to the city

at least ten (10) days prior to the expiration of such policy, evidence that it has been renewed. All policies of insurance carried hereunder shall provide that they cannot be canceled without giving at least ten days prior written notice to the city and shall be written by insurance companies licensed by the Commonwealth of Kentucky and reasonably satisfactory to the city. Any insurance carried by a business on his, her or its own property or for his, her or its own benefit in connection with this section shall contain a clause waiving any claim by the insurance company for subrogation against the city.

- (4) Alcoholic beverages may only be served or consumed in the encroached parking area, if the restaurant or tavern's service is in compliance with their ABC liquor state and local licenses by as approved by the City Alcoholic Beverage Control Administrator and the state Department of Alcoholic Beverage Control or otherwise allowed by law.
- (5) Businesses shall not operate in the "encroached premises" earlier than 7:00 a.m. and all operations in the "encroached premises" must cease and be vacated by 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday.
- (6) An encroachment may be revoked by the city upon a finding by the city manager that the business has violated any terms of the Permit; or that the encroachment causes a health/safety risk; or that a city ordinance or state or federal law has been violated; or the business or an employee of the establishment has been convicted of serving alcohol to a minor. The business may appeal this revocation to the city board of commissioners within 14 days of the notice of revocation.
- (7) The business shall have the option to designate whether or not smoking will be permitted in all or a portion of the "encroached premises."

The City Manager is hereby authorized and directed to develop guidelines and regulations related to allowing the placement of tables, chairs and other items on sidewalks, the public right-of-way and private property which are consistent with social distancing and all other Executive Orders issued by the governor.

This Order shall expire at 11:00 p.m. on August 1, 2020.

On motion of Commissioner _____, seconded by Commissioner _____, that the foregoing Order be adopted, the vote was called. On roll call the vote stood:

Commissioner Vowels: _____	Commissioner Staton: _____
Commissioner Bugg: _____	Mayor Austin: _____
Commissioner Royster: _____	

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the 19th day of May, 2020.

Steve Austin, Mayor
Date: _____

ATTEST:

Maree Collins, CKMC, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 15 DAY OF
MAY, 2020.**

By:



Dawn S. Kelsey
City Attorney