

MONMOUTH ILLINOIS

DATE: July 1, 2021

TO: Mayor Davies and Members of the Monmouth City Council

FROM: Lew Steinbrecher, City Administrator

RE: Expanded Temporary Outdoor Seating for COVID-19

In the Spring of 2020, the City Council approved temporary expanded outdoor seating provisions to help local bars and restaurants create and/or expand outdoor seating for their establishments to better cope with the restrictions imposed on indoor seating through Executive Orders issued by Governor Pritzker during the COVID-19 pandemic. These temporary provisions were (and still are) more lenient, than the permanent ordinance amendments that were adopted by the City Council in October 2020, particularly in terms of the expanded use of sidewalks and adjoining public parking spaces. There was a general consensus among City Council Members in the early spring of this year (2021), to continue to administer these temporary expanded outdoor seating provisions because Illinois bars and restaurants were still restricted under the Governor's Executive Orders and there was still considerable uncertainty about how long these orders were to remain in effect, again due to the COVID-19 pandemic.

Now that the Governor has rescinded his executive orders, it would be appropriate to have the City Council discuss whether or not to continue with these more lenient (expanded) outdoor seating provisions and revert back to the permanent provisions in the Sidewalk Café ordinance that was adopted in October of 2020. While these amendments in the Sidewalk Café ordinance are more lenient than the original café ordinance, they are NOT as lenient as the temporary expanded outdoor seating accommodations that the City Council informally authorized (no ordinance) in the spring of 2020.

I have attached a copy of the amended Sidewalk Café Ordinance and a copy of the Temporary Outdoor Seating Requirements (which specifically references the changing landscape of the COVID-19 pandemic), for your review in preparation of discussing this matter at the July 6th City Council meeting.

Temporary Outdoor Seating Permit Requirements

- A barrier must surround the designated outdoor area. This barrier must not allow easy ingress/egress except at the entrance. Temporary fencing is allowed.
- The outdoor area must have a single entrance/exit
- **Social distancing guidelines MUST BE ENFORCED and additional safety precautions should be encouraged**
- No smoking is allowed within 15 feet of the outdoor area
- If the area encroaches on a sidewalk, a clear, 36-inch-wide path must be left on the sidewalk to accommodate pedestrian traffic outside the area
- **All site plans must be approved by City Staff**
- Sound leakage must be considered. Any music, etc. must be kept to an acceptable level and should be at a reduced volume during evening hours
- **Hand disinfectant must be available and surfaces must be disinfected as often as possible**
- Hours of operation are from 6 AM to 11 PM
- **EMPLOYEES OF THE ESTABLISHMENT MUST PERFORM A DAILY COVID-19 SYMPTOMS CHECK**
- The establishment must have a plan to mitigate the impacts of severe weather
- Staff must be present in the outdoor seating area at all times
- Businesses may be asked to modify their site at any time by public health officials, Law enforcement or City officials. This is due to the changing landscape of the COVID-19 pandemic.
- **This permit does not supersede any IDPH, CDC, Governor's Office or liquor commission requirements**

Failure to follow any of the requirements will result in suspension of the outdoor seating permit.

ORDINANCE NO. 20-028

AN ORDINANCE AMENDING CHAPTER 125, ENTITLED "SIDEWALK CAFES", TO THE CITY ORDINANCES OF THE CITY OF MONMOUTH, ILLINOIS

WHEREAS, the City Council for the City of Monmouth believes it to be in the City's best interest to pass an Ordinance for the City of Monmouth that allows for and encourages the addition of sidewalk cafes to existing restaurants within the city limits of the City of Monmouth;

BE IT ORDAINED by the City Council of the City of Monmouth, Warren County, Illinois, as follows:

Section 1:

Ordinance 12-025, previously enacted by the City Council of the City of Monmouth is hereby repealed in its entirety.

Section 2:

Chapter 125 of the City of Monmouth Code of Ordinances shall read:

CHAPTER 125: SIDEWALK CAFES

Section 125.01 - Definitions

The following words and terms shall have the meanings respectively ascribed to them for purposes of this Chapter of the Code of Ordinances to the City of Monmouth, as follows:

Lounge. A dram shop holding the proper state and local liquor license, where limited food service is available to customers on site, however, food sales account for less 50% of revenues of the establishment.

Pedestrian Way. An improved walk or passageway, not adjacent to any city street, intended for use by pedestrians.

Restaurant. Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve food for its guests, and which place derives at least 50% of its revenue from the sale of food.

Restaurant Operator. An individual, partnership, corporation or other entity that owns or operates a restaurant.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of a roadway if there is no curb, and the adjacent property line or street right-of-way line that is intended for the use of pedestrians.

Sidewalk Cafe. That portion of the dining operation of a restaurant that extends into the sidewalk or pedestrian way and is immediately adjacent to said restaurant building pursuant to a permit authorized by this ordinance.

Section 125.02 - Permit; Application

- (a) General. Notwithstanding any other provisions of this Code to the contrary, sidewalk cafes shall be permitted at such locations and subject to such regulations as are set forth in this ordinance.
- (b) Permit required. No restaurant or lounge may extend its dining operations into a sidewalk or pedestrian way without first obtaining a permit therefor in accordance with the requirements of this ordinance.
- (c) Application. Any restaurant or lounge operator desiring to operate a sidewalk cafe shall prepare and file an application with the City Clerk which shall contain the following information:
- (1) The name, address and telephone number of the restaurant/lounge, restaurant/lounge operator and the Landlord of the building where the restaurant/lounge is operated if said building is not owned by the restaurant/lounge operator.
 - (2) The types of food and beverages to be sold or served at the sidewalk cafe.
 - (3) The hours of operation of the restaurant/lounge and the proposed hours of operation of the sidewalk cafe which must be between the hours of 6:00 a.m. and 11:00 p.m., provided no alcohol is served before 11:00 a.m.
 - (4) A site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barricades and other furnishings within the sidewalk or pedestrian way.
 - (5) Evidence of insurance and a statement of indemnity as required by this ordinance.
 - (6) A permit application fee of \$25.00 to recover the cost of processing the application and issuing the permit.

(d) Indemnity. In consideration for the granting of the permit, the restaurant/lounge operator agrees to indemnify and hold harmless the city, its officers, agents, and employees against loss or expense including attorney's fees, by reason of the liability imposed by law upon the city, for damage because of bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, or on account of damage to property arising out of or in consequence of the granting of a permit pursuant to this article. The restaurant shall agree to such indemnity on the application for the permit.

(e) Insurance. The restaurant/lounge operator shall secure and maintain comprehensive general liability insurance protection, including but not limited to coverage for all premises and non-premises operations, independent contractors, broad form property damage coverage, including explosion, collapse and underground property damage hazards, personal injury liability protection including coverage relating to employment of persons, contractual liability protection covering the indemnification of the city by the restaurant operator. This insurance shall provide bodily injury limits of not less than \$1,000,000.00 for each occurrence and not less than \$1,000,000.00 in the aggregate, and with property damage limits of not less than \$500,000.00 for each occurrence and not less than \$500,000.00 in the aggregate. All insurance required under this agreement shall be written with a company licensed to do business in Illinois. A certificate of insurance naming the City of Monmouth as an additional insured must accompany the permit application and be kept on file in the City Clerk's office.

(f) Issuance of permit; denial. The City Clerk shall examine the application and determine whether all of the requirements stated in this article for the issuance of a permit have been satisfied. If all such requirements have been satisfied, then the City Clerk's office shall issue the permit. If the permit is denied, the applicant shall be provided with the reasons therefor in writing, and the permit application fee shall not be refunded.

(g) Permit revocation. The City may revoke a permit issued pursuant to this article if it is determined that the restaurant/lounge operator has:

- (1) Misrepresented or provided false information in the permit application.
- (2) Violated any provision of this ordinance or any other local or state regulations or laws, including, but not limited to health code violations.
- (3) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.

(4) Operated the sidewalk cafe in such manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse at end of each business day.

(5) Failed to maintain any health, business or other permit or license required by law for the operation of the restaurant associated with the sidewalk cafe.

(6) Operated the sidewalk cafe in violation of any city, county or state law, ordinance or regulation. Before the revocation of a permit, the City shall notify the permit holder of its intent to revoke the permit and the reasons therefor. The permit holder shall have ten (10) days from receipt of such notice to file a written appeal of the proposed revocation, along with a statement of the grounds for the appeal, with the City Administrator or his designee, who shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the permit holder shall be notified in writing of the revocation decision and the reasons therefor.

(h) Reservation of rights. The City reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance or repair of any street, sidewalk, utility, or public building by the City, its agents or employees, or by any other governmental entity or public utility; to allow for use of the street or sidewalk in connection with parades, civic festivals and other events of a temporary nature as permitted by the city; and to remedy a public nuisance or to protect the public health, safety, or welfare.

(i) Term, transfer, renewal, etc. Permits issued in accordance with the provisions of this article shall:

(1) Be issued for the period beginning April 1 or thereafter and expiring November 30 of each year. If a permittee discontinues the restaurant operation or the sidewalk cafe, no refund of the permit fee shall be made.

(2) Not be transferable or assignable.

Section 125.03 - Regulation

(a) The sidewalk cafe must share the same management and same food preparation facilities as the restaurant/lounge to which it is associated with and is adjacent to. The sidewalk cafe must be operated under the same name as the restaurant/lounge and may not be open or operated at any time when the restaurant/lounge is not open for business. Sidewalk cafes for restaurants and lounges may operate at any time between the hours of 6:00 a.m. and 11:00 p.m., Sunday through

(i) All sidewalk cafes must have one (1) opening for ingress and egress at all times, unless otherwise required by the City's Fire Chief. Special accommodations may be made for more than one opening for participating restaurant/lounge's fronting Market Alley.

(j) All sidewalk cafes must adhere to the size, design, and any other specifications approved by the City at all times. Strict adherence to required design standards as set forth herein is mandatory.

(k) Sidewalk cafes may be in operation from April 1 until November 30 during the calendar year. When not in operation, the tables, chairs, barricades and other furnishings used in the sidewalk cafe shall be removed and stored off of the sidewalk or pedestrian way.

(l) No smoking is allowed in either the sidewalk cafe or the interior food establishment. Smoking is also prohibited within 15 feet of an entrance to an enclosed area in which smoking is prohibited.

(m) All operations of the sidewalk cafe must be compliance with all safety guidelines issued by local and state public health officials that may be adopted from time to time.

Section 125.04 - Alcoholic Beverages

(a) If a sidewalk cafe is operated by a restaurant with a Class 1, Class 2 or Class 3 Liquor License (as defined by Section 115.24), then the cafe area must be separated from the remaining sidewalk or pedestrian way by a barricade or temporary fencing, provided it can prevent easy ingress and egress except at the entrance/exit referred to in Section 125.03(i). Such barricade or temporary fencing must be constructed of materials of a finished quality and designed for outdoor use, including but not limited to, wrought iron, planters, picket fences, or synthetic velour ropes, vinyl braided ropes or polyester belts. No signs shall be placed on the barricades.

(b) The consumption of malt beverages, unfortified wine and other alcoholic beverages in compliance with all state and local laws and regulations shall be permitted in a sidewalk cafe, and this shall be an exception to the general prohibition of such consumption on street right-of-way provided in Section 132.60 of the City Code of Ordinances as well as the Outdoor Operation requirements of Section 115.57 of the City Code of Ordinances.

(c) Bring Your Own Bottle of liquor (BYOB) shall not be allowed at a sidewalk cafe, with the following exception: if the restaurant/lounge is licensed to sell wine, then a patron may bring in a single, unopened bottle of wine for consumption within the restaurant or sidewalk cafe, provided the restaurant/lounge charges a minimum corkage fee of \$5.00.

Section 2:

In all other respects, Chapter 125 of the Monmouth Code of Ordinances previously enacted shall remain in full force and effect.

Section 3:

This ordinance shall be in full force and effect ten (10) days after this due publication in pamphlet form, passage and approval thereof as provided by law.

PASSED this 19th day of October, A.D., 2020.

APPROVED this 20th day of October, A.D., 2020.

Boel Davies

MAYOR

ATTESTED:

Susan S. Trevor

CITY CLERK

Ayes: 8

Nays: 0

Absent or not voting: 0