



LIQUOR COMMISSION

109 E. OLIVE

TUESDAY, APRIL 14, 2015 4:00 P.M.

- 1 Call to Order
- 2 Public Comment
- 3 Approval of the Minutes from March 10, 2015.
- 4 Request of Sonya Bettner and Sean McNiff to allow moderate consumption of alcohol at their November 7, 2015 wedding reception to be held at Miller Park Pavilion.
- 5 The application of Dyno Enterprises, Inc., d/b/a Convenient Food Mart, located at 1102 N. Hershey Rd., requesting a PAS liquor license which would allow the sale of all types packaged alcohol for consumption off the premises seven (7) days a week.
- 6 The application of Two K's Diner, d/b/a Two K's Diner, located at 1804 S Hershey Rd, requesting an RBS liquor license which would allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week.
- 7 Notification of Corporation Officer changes from MCO QSR, Inc., d/b/a Legends Sports Bar & Grill currently holding a RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. From Michael Owens, President, to Craig O'Dell, President. Removal of Candance Owens, Vice President.
- 8 Public Discussion of potential Amendments to the Sidewalk Café Ordinance. [20 minutes]
- 9 Sanctions hearing of Mercedes Restaurants, Inc., d/b/a Famous Dave's, located at 1603 Morrissey Dr., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for the consumption on the premises seven (7) days a week.
- 10 Adjournment

ITEM 8

Chapter 6, Section 7A : Classification.

(11) Class "O" (Outdoor) - authorizes the retail sale of alcoholic liquor by any person holding a Class R license upon a sidewalk designated in a sidewalk cafe permit adjacent to the licensed premises during the hours of 9:00 a.m. to 12:00 o'clock midnight, Monday through Saturday, and 12:00 noon to 12:00 o'clock midnight on Sunday, provided that a valid sidewalk cafe permit has been issued, pursuant to Article IX of Chapter 38. During the times when alcoholic liquor may be served under the Class O license, the licensee shall: (1) Not allow or permit any customer, employee or other person to remove alcoholic liquor from the area designated in the sidewalk cafe permit or the service premises of the licensee. (2) Not serve, allow or permit any person to be served, be in possession of, or consume alcoholic liquor in the area designated in the sidewalk cafe permit unless that person is utilizing the seating which has been provided in accordance with the site plan approved with the sidewalk cafe permit. (3) Comply with all requirements set forth in Article IX of Chapter 38. (4) Provide table service, which shall include food service, in the sidewalk cafe area during the hours when alcoholic liquor is permitted to be served. The sidewalk cafe area shall be subject to all provisions of this chapter as though the sidewalk cafe area was part of the licensee's service premises during the times permitted by this section for alcoholic liquor sales. Prior to the issuance of a Class O license the licensee shall provide proof of dram shop insurance. The policy shall name the City of Bloomington as an additional insured, and will indemnify and hold it harmless from any action, proceeding or claim of liability asserted against it as a result of the operation of a sidewalk cafe. Failure by the licensee to maintain the insurance required by this section shall result in the revocation of the license. (Ordinance No. 2013-95)

Chapter 38, [Division 2 : Sales from Vehicles, Carts, Etc.](#)

[Section 166.1 : Definitions.](#)

Street and Sidewalk Vendor. Any person engaged in the selling, or offering for sale, of food, beverages, goods wares or merchandise on the public streets, sidewalks or rights of way from a stand, motor vehicle or from his person by locating the same in a fixed location for a period of time rather than by going from place to place within the City. (Ordinance No. 1998-44)

[Section 166.2 : License Required; Application; Fees.](#)

(a) License Required. No person may engage in the business of a street and sidewalk vendor without first obtaining a license to do so. (Ordinance No. 1998-44)

(b) Exception. Persons with sidewalk cafe permits as provided in Division 3 of this Article or who are registered as solicitors as provided in Chapter 33 Section 2 of this Code shall not be required to obtain a vendor's license. (Ordinance No. 2006-6)

[Section 166.6 : Location Requirements and Restrictions.](#)

(a) Minimum Requirements for Vendor Locations. No street and sidewalk vendor's license shall be issued for any location which does not meet the following criteria:

(1) For sidewalk locations, the paved pedestrian area must be at least ten feet (10') wide.

(2) For street locations, the paved street must be at least thirty-two feet (32') wide.

(3) Locations on a street corner shall not be within thirty feet (30') of the intersection of the street curb lines. Further, locations shall not be within thirty feet (30') of another licensed location.

(4) The location shall not be within one hundred feet (100') of a park, playground or school.

- (5) No location shall be granted adjacent to or within a designated bus stop.
- (6) No location shall be granted within one hundred fifty feet (150') of property which has a valid building permit if the construction on said property would endanger the health and safety of those patronizing the vendor.
- (7) Licensees whose sites abut property upon which there is located a structure which is occupied by a single business shall have written consent of said occupant. Otherwise, the licensee shall have the written consent of the property owner(s) abutting his site. (Ordinance No. 1998-44)
- (b) Assignment of Sidewalk Locations in the Downtown Business District.
- (1) As used in this Division, the phrase "downtown business district" shall mean the following described territory or district: Locust Street, Main to Center, Madison Street, Locust to Olive, Prairie Street, Locust to Olive, Olive Street, Center to East.
- (2) No person shall hold more than two (2) licenses in the district. Any locations remaining unlicensed shall be assigned to applicants on a first-come basis. Persons renewing their licenses will be given preference to relocate at their prior site if they apply for renewal prior to November 1 before the year for which the license is requested. (Ordinance No. 1998-44)
- (c) Assignment of Other Locations: Upon applying for a license under this Division for a street location or a sidewalk location outside of the downtown business district, the applicant shall state the location where he desires to locate. Thereafter, persons renewing their license for the succeeding year will be given preference to relocate at their prior site if they apply for renewal prior to February 1 of the year for which the license is requested. (Ordinance No. 1998-44)

[Chapter 38 : Article IX : Soliciting on Streets](#)
[Division 3 : Sidewalk Cafe](#)

[Section 167.1 : Definitions.](#)

The following words and phrases shall have the meanings respectively ascribed to them when used in this article:

- (1) Food service establishment shall mean any business that provides prepared food for immediate consumption, as defined in Chapter 39, Section 325 of the Bloomington City Code.
- (2) Sidewalk cafe shall mean a use of public sidewalk by a food service establishment for the serving of food and beverages on the sidewalk immediately adjacent to the food service establishment, which use will be characterized by the sidewalk use of tables, and chairs and umbrellas.
- (3) Permit area shall mean the sidewalk area designated on the permit specifying the area of operation of the sidewalk cafe.
- (4) Permittee shall mean the person or entity operating a food service establishment who has received a permit allowing for the operation of an sidewalk cafe. (Ordinance No. 2006-6)

[Section 167.2 : Permits Required, Fee.](#)

- (a) It shall be unlawful for any person to operate a sidewalk cafe without an sidewalk cafe permit.
- (b) The sidewalk cafe permit shall allow a food service establishment located in the B-3 Central Business District of the City to operate a sidewalk cafe subject to the requirements of this Code.
- (c) Subject to the requirements of the Code, the permit holder shall, as part of the right granted pursuant to the permit, be entitled to remove or exclude persons from the permit area during hours of business operation and such permittee is authorized to give notice to any such person to prevent such entry. No cover charge nor minimum purchase may be required for admittance to a sidewalk cafe area in the public right-of-way.
- (d) The fee for a sidewalk cafe permit shall be \$100.00 per year.
- (e) The sidewalk cafe permit shall expire annually on December 31 of each year and an application must be made for a sidewalk cafe permit each year. (Ordinance No. 2006-6)

Section 167.3 : Application.

Application for an sidewalk cafe permit shall be made on forms supplied by the City Clerk, and submitted to the Director of Engineering, together with the required fee, and shall, at minimum, include the following:

- (a) The name, address, and telephone number of the owner of the property and the food service establishment related to the permit.
- (b) A drawing or sketch which will include the dimensions of the proposed permit area and which shows the location and type of the tables, chairs, trash receptacles and other equipment proposed to be used, location of ingress and egress, the curb line and any existing public or utility-owned equipment facilities in or adjacent to the area proposed which are visible to the eye, including but not limited to parking meters, trees, manhole covers and utility poles or openings.
- (c) A statement as to whether the applicant intends to serve alcoholic beverages and if yes, a copy of a valid Class R liquor license.
- (d) An operations plan specifying the proposed dates, days and hours of operation of the sidewalk cafe, the hours of operation of the adjacent food service establishment, scheduled maintenance of the permit area, maximum seating capacity, and method of providing security and maintenance.
- (e) An original of a certificate of insurance listing the required coverage amounts and policy periods of the permittee's general liability policies.
- (f) An executed waiver of liability in a form approved by the City Attorney.
- (g) Any other information related to the requirements of this chapter that the Director of Engineering may require. (Ordinance No. 2006-6)

Section 167.4 : Review of Applications.

(a) The Director of Engineering shall review the application for a sidewalk cafe permit and determine whether to issue the permit. No permit shall be issued pursuant to this article unless the Director of Engineering has determined the following:

- (1) There are no outstanding fines, fees, taxes or other charges due and owed to the City by the applicant or the owners of the real property on which the establishment is located.
- (2) The applicant has supplied all of the information required on or by the application, and any additional information requested by the Director of Engineering.
- (3) All of the requirements of this article have been met.
- (b) The Director of Engineering may impose conditions upon the issuance of a sidewalk cafe permit in order to protect the use of adjacent right-of-way for its intended purpose, to prevent congestion of vehicular or pedestrian traffic flow and to otherwise carry out the purpose and intent of this article and this Code.
- (c) The Director of Engineering may deny an application for a sidewalk permit if the operation of a sidewalk cafe in the location described in the permit would not be compatible with the use of surrounding property or that it is not in the interest of public safety or would otherwise unreasonably interfere with public use of the sidewalk, provided that the presence of another sidewalk cafe in close proximity to the proposed location shall not be cause to deny the permit unless there are public safety concerns.
- (d) The Director of Engineering shall not issue a sidewalk cafe permit to any person who has had a sidewalk cafe permit revoked for any of the reasons stated in Section 167.10. (Ordinance No. 2006-6)

Section 167.5 : Regulations.

- (a) A sidewalk cafe is permitted only on sidewalks. The permit area shall be limited to the area immediately adjacent to the establishment requesting the permit, or on sidewalks contiguous to the sidewalk adjacent to the establishment.
- (b) No permit shall be issued for sidewalks abutting Madison Street and East Street between Locust Street on the north and Kentucky Alley on the south.
- (c) No permit will be allowed if seats or equipment in the sidewalk cafe result in the need for additional restrooms or additional parking and unless such additional restrooms or parking are provided, except that no alcoholic beverages may be sold or consumed after twelve o'clock (12:00) midnight.
- (d) The hours when service is permitted at the sidewalk cafe shall be during business hours of the permittee provided however that alcoholic beverages may only be served or consumed within the permit area between the hours of ten o'clock a.m. and twelve o'clock midnight Monday through Saturday and twelve o'clock noon and twelve o'clock midnight on Sunday.
- (e) Any person making use of an sidewalk cafe shall do so in a reasonable manner with due regard for the health and safety of persons and property. No permittee shall make any physical alteration to public property without the written permission of the Director of Engineering. A permittee shall owe a duty to the City of Bloomington and third persons to maintain the permit area in a clean, safe and sanitary condition.
- (f) The permittee shall keep the permit area free of litter, cans, bottles and spills at all times. The permittee shall promptly collect and dispose of all litter, trash and other waste materials associated with the sidewalk cafe, including material in the adjacent public right-of-way or property originating from the sidewalk cafe. The permittee shall dispose of any such waste in their own trash containers only.
- (g) No cooking or food preparation shall be permitted at any time within the permit area.
- (h) Upon the expiration or other termination of a sidewalk cafe use permit, the permittee shall immediately remove all tables, chairs, furnishings, equipment and other items of personal property from the permit area. Any such items remaining upon the public right-of-way may be removed and disposed of by the City of Bloomington at the sole cost and expense of the permittee.
- (i) No live entertainment or sound amplification equipment shall be allowed at any time within the permit area. This provision shall not prohibit ambient background music. For purposes of this provision, "ambient background music" shall mean quiet music that is played at minimal volume such that it is not audible from adjoining property or public rights of way.
- (j) Only the following types of furniture or other equipment may be located in an sidewalk cafe:
- (1) Tables and chairs.
 - (2) Umbrellas.
 - (3) Waste receptacles.
 - (4) Busing carts.
 - (5) Temporary railings or landscaping used to demarcate the boundaries of the permit area.
- Said furniture and other equipment shall be portable, shall not be chained, bolted or otherwise secured together as a unit, shall not be affixed to the surface of the permit area, and shall be removed on a nightly basis.
- (k) The maximum allowable dimension for tables shall be forty-eight (48) inches in diameter, forty-eight (48) inches in width or length, and thirty (30) inches in height.

(l) Tables shall be freestanding with detached chairs or seating, unless it is determined that another design meets the intent of these regulations and a specific exception is permitted in writing by the Director of Engineering.

(m) Umbrellas shall have a maximum diameter of eight (8) feet, a weighted base and be fabric covered.

(n) No signs, banners, sandwich boards or other like advertising, except for advertising permitted by the Sign Code, shall be located in the permit area.

(o) Tables, chairs, umbrellas, and other permissible equipment shall be located in the sidewalk cafe area so that there remains open, at all times, a longitudinal walking space, the location of which shall be determined by the Director of Engineering or designee, of a minimum of four (4) feet in width, with a cross-slope not to exceed Americans with Disability Act (ADA) requirements.

(p) The placement of portable heaters must be reviewed and approved by the City's Fire Inspector.

(q) The Director of Engineering may promulgate administrative rules which relate to the requirements contained in this article. Such rules shall be attached to the permit and be followed by the permittee. (Ordinance No. 2006-6)

Section 167.6 : Temporary Nature of Use.

(a) The use of a public sidewalk as a sidewalk cafe shall be subject to temporary suspension or termination at any time by the City in the interest of the public health, safety and welfare. To the extent that a permit area is needed by the City for the purposes for which it was dedicated, or any other public purpose, the City may immediately terminate the revocable use permit by sending written notice to the permittee and assume full possession and control of the permit area. The permittee shall remove all furniture from the right-of-way within the time specified by the notice. If the furniture is not removed by the permittee, the City shall be authorized to remove all furniture and other objects of permittee from the permit area.

(b) If such furniture is not removed by the permittee within seven (7) days after removal by the City, the property shall be presumed abandoned and subject to disposal according to law. (Ordinance No. 2006-6)

Section 167.7 : Public Property.

The provisions of this section shall apply only to the locating of sidewalk cafes on public property or public right-of-way and shall not apply to any private property. (Ordinance No. 2006-6)

Section 167.8 : Indemnification: Payment for Cleaning or Damages.

(a) As an express condition of the issuance of the permit, each permittee shall agree in writing to indemnify and hold harmless the City against all claims, liability, loss, injury, death or damage whatsoever in connection with or arising out of the use of the sidewalk cafe by anyone, except where the claim is the result of the sole negligence of the City.

(b) As an express condition of the issuance of the permit, the permittee shall agree to, within seven (7) days after the billing date, pay to the City all costs associated with damage to the pavement or other City-owned facilities located in or adjacent to the permit area caused by operation of the food service establishment, or the cleaning of or trash removal from the permit area or adjacent premises occasioned by the failure of the permittee to clean or remove such trash.

(c) The Director of Engineering is authorized to execute the agreements required in subsections (a) and (b) above after the form thereof has been approved by the City Attorney. (Ordinance No. 2006-6)

Section 167.9 : Insurance Requirements.

All persons, prior to receiving a permit, shall procure and maintain for the duration of the permit, public liability and property damage insurance pertaining to the permit area in a minimum amount of one million dollars (\$1,000,000.00) per person and one million dollars (\$1,000,000.00) in the aggregate per occurrence and property damage in a

minimum amount of one million dollars (\$1,000,000.00), which shall name the City of Bloomington, its officers and employees as additional insureds and the same shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the City. Proof of such insurance, issued by an insurance company licensed to do business in the State of Illinois in the form of a certificate of insurance, shall be attached to the application. (Ordinance No. 2006-6)

Section 167.10 : Revocation and Suspension.

Any sidewalk cafe permit may be revoked or suspended for a period not to exceed thirty (30) days by the City Manager if the City Manager shall find after a hearing that:

(a) The Permittee has failed to operate the sidewalk cafe in accordance with the regulations set forth in Section 167.5 or any condition imposed on the issuance of the permit by the Director of Engineering.

(b) The Permittee has failed to operate the sidewalk cafe in compliance with all codes pertaining to health and safety applicable within the City of Bloomington, including but not limited to, Building, Plumbing, Electrical and Fire Codes, Zoning Ordinances, McLean County Health Ordinances and orders of the McLean County Health Department.

(c) The Permittee has failed to operate the sidewalk cafe in compliance with all codes and state laws pertaining to the sale, serving and consumption of alcohol within the City of Bloomington including any conditions placed on a license issued to Permittee for the sale of alcohol and any order of the Bloomington Liquor Commission. (Ordinance No. 2006-6)

Chapter 6, Section 7A : Classification. (11) Class "O" (Outdoor) details sidewalk café and liquor.

Some highlights:

Only class R licenses are able to sell liquor in a sidewalk café setting.

They business must also serve food to the sidewalk café.

The hours that a sidewalk café can operate is different than regular liquor selling times.

DRAM insurance must list the sidewalk café in the description.

The sidewalk cafe requirements must meet the requirements of City Code as established in Chapter 38; Art. IX; Div. 3; Section 167 and ADA/PROWAG (Public Rights of Way Access Guidelines).

Basic Requirements Include:

- B-3 Central Business District Zoning
- Location limited to the area immediately adjacent to the establishment requesting the permit, or on sidewalks contiguous to the sidewalk adjacent to the establishment.
- Must not unreasonably interfere with public use of the sidewalk, or create public safety concerns.
- Minimum of 4' Pedestrian Access Route (PAR) around the sidewalk location.
- Barriers or fencing (if required) must be detectable per PROWAG/ADA requirements.
- Must not interfere with adjacent parking restrictions.
- Must not create a vehicular site distance issue.
- The requirements of City Code below. (pretty much just the code)