



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item Number: IC

Title:

Recommendation to approve an Ordinance Amending the Temporary Outdoor Dining Permit Program through Phase 4.

Presenter:

Rita Tungare, Director of Community and Economic Development.

Meeting: City Council - New Business

Date: October 5, 2020

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

On May 28, 2020 the Mayor signed an Executive Order that permitted expanded temporary outdoor dining opportunities in St. Charles. When the region moved into Phase 3 of the Restore Illinois plan on May 29, 2020, outdoor dining was permitted but indoor dining was prohibited. However, the program was so successful that even when our region moved into Phase 4 on June 26, 2020, which allowed indoor dining to resume, restaurant owners requested the City to extend the life of their temporary outdoor dining permits beyond the original expiration date of June 29, 2020.

On June 29, 2020 the City Council approved Ordinance #2020-M-26, "Establishing a Temporary Outdoor Dining Program" which extended the permits previously issued under the Mayor's Executive Order. The extended permits are set to expire on October 31st and some local restaurant owners are interested in another extension of the temporary outdoor dining program. The ordinance being presented extends the temporary outdoor dining through Phase 4 of the Restore Illinois plan.

Permitting Enclosed Tents:

Winter brings additional challenges to maintain safe and comfortable outdoor dining experiences. City staff in Building and Code Enforcement and the Fire Department will be requiring and reviewing permits and conducting inspections to ensure compliance with the IFC (2015) and other applicable City codes. Tents will be permitted and approved as the City code allows, and enclosed tents (which are considered indoor dining) will be allowed so long as indoor dining is permitted by the Illinois Department of Public Health. Current guidance from the State indicates that if more than 50% of the tent sides are down, it is considered indoor dining, which is permitted currently; however, if our region reverts to Phase 3 or mitigation that closes indoor dining, then enclosed tents would not be permitted.

Suspension of some sections of the Municipal Code:

The Temporary Outdoor Dining policy includes the suspension or relaxation of some sections of the local zoning code, including, but not limited to, parking minimums and other regulations detailed in Section 17.24 of the Municipal Code Book. These suspensions have been in effect for the purpose of expanded temporary outdoor dining since the Mayor's Executive Order was signed in May. Amending the temporary outdoor dining program as proposed by this ordinance means in effect extending these code suspensions as well.

Items for consideration at a future meeting:

Staff will be bringing forward for Council consideration items related to plans & designs for allowing temporary tents in the First St plaza as well as extending the closure of First Street and Walnut Avenue at the Oct 19th Council meeting

Attachments *(please list):*

- Temporary Outdoor Dining Ordinance
- Temporary Outdoor Dining Program Guidelines
- Tent permit and guidelines

Recommendation/Suggested Action *(briefly explain):*

Recommend approval of an Ordinance Amending the Temporary Outdoor Dining Program and extending it through Phase 4.

City of St. Charles, IL
Ordinance No. 2020-M- _____

**An Ordinance Amending the Temporary Outdoor Dining
Program**

WHEREAS, COVID-19 (a/k/a Novel Coronavirus) is a severe respiratory illness caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of the City of St. Charles; and

WHEREAS, no drug or vaccine is currently available to treat or prevent COVID-19; and

WHEREAS, on January 27, 2020, United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency due to COVID-19; and

WHEREAS, on March 9, 2020, Illinois Governor J.B. Pritzker issued a Gubernatorial Disaster Proclamation declaring that all counties in the State of Illinois, including Kane and DuPage Counties, are disaster areas due to the Novel Coronavirus; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared COVID-19 to be a global pandemic; and

WHEREAS, on March 13, 2020, President of the United States Donald Trump issued a declaration of a national emergency due to the growing COVID-19 crisis in the United States, and on March 26, 2020, President Trump issued a major disaster declaration for the State of Illinois due to the COVID-19 crisis; and

WHEREAS, on March 18, 2020, Raymond P. Rogina, as Mayor of the City of St. Charles (“City”) issued a Declaration of a Local State of Emergency for the City to address the impact of COVID-19 on the City and its residents and businesses and property owners (“Emergency Declaration”); and

WHEREAS, the Illinois Governor has established a five-phase plan, Restore Illinois, dated May 5, 2020, for the reopening of the State; and

WHEREAS, though the threat from COVID-19 to the public health, safety and welfare continues, the Restore Illinois Plan acknowledges the need to allow local and State economies to begin to recover economically to minimize and reverse the adverse economic, social and psychological effects of Phases 1 (Rapid Spread) and 2 (Flattening the Curve) of the Plan; and

WHEREAS, all regions of the Restore Illinois Plan, including the Northeast Region in which the City is located, advanced to Phase 3 on May 29, 2020 which allowed outdoor dining to reopen with social distancing and safety measures in place; and

WHEREAS, pursuant to the Mayor's Executive Order issued on May 28, 2020, the City issued permits allowing temporary outdoor dining areas; and

WHEREAS, Region 8, in which the City is located, advanced to Phase 4 on June 26, 2020, which has allowed indoor dining, amongst other businesses, to resume operations with social distancing and safety measures in place; and

WHEREAS, on June 29, 2020, the City Council approved Ordinance #2020-M-26, "Establishing a Temporary Outdoor Dining Program" which extended the permits previously issued under the Mayor's Executive Order; and

WHEREAS, permits for temporary outdoor dining areas issued under the Mayor's Executive Order and the Temporary Outdoor Dining Program expire on October 31, 2020; and

WHEREAS, suspension and relaxation of the local zoning and other ordinances and rules to encourage and expand the ability of restaurants and bars to offer the outdoor consumption of food and drinks during the period of recovery would be in the best interests of the City; and

WHEREAS, the City Council finds it reasonably necessary to continue and extend the Temporary Outdoor Dining Program- to allow restaurants additional outdoor dining space to compensate for reduced indoor capacity and recovery from the past months of reduced operations and income.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

A. The recitals set forth above are adopted and incorporated herein as the material and significant findings of the Council.

B. An Amended Temporary Outdoor Dining Program, attached hereto as Exhibit "A" is hereby established.

C. The Temporary Outdoor Dining Program shall be effective until the Region moves into Phase 5 of the Restore Illinois Plan, unless extended by the City Council. After termination of the program, use of temporary outdoor dining areas authorized through the program shall cease, barriers and all other improvements placed therein shall be removed, and all areas used for temporary outdoor dining shall be returned to their original use within 48 hours of the termination date.

D. This Ordinance is effective immediately and shall cease by its own terms provided herein.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 5th day of October 2020.

PASSED by the City Council of the City of St. Charles, Illinois, this 5th day of October 2020.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 5th day of October 2020.

Raymond P. Rogina, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:



Exhibit A

Temporary Outdoor Dining Program Program Guidelines

Updated October 02, 2020

- A. Establishments that are allowed to reopen for outdoor dining with social distancing and safety measures, as allowed by the Restore Illinois Plan, that have existing outdoor areas for the consumption of food and drinking wanting to expand their current outdoor dining area and establishments seeking to temporarily add outdoor dining areas shall abide by the following:
1. Establishments must apply for a temporary outdoor dining permit from the City (attached at the end of this document). There shall be no fee for the permit.
 - a. The permit application shall include an aerial drawing that shows the existing outdoor dining area (if any) in a dotted line and the proposed new dining area in a solid line. Also:
 - i. If the proposed new dining area encroaches upon an existing parking area, the applicant should indicate on the drawing how traffic will flow if the request is approved.
 - ii. Parking lots over 25 stalls: Up to 50% of the parking area may be used for outdoor dining. Parking will need to be preserved to adequately serve the outdoor dining area and carry-out activities. ADA parking spaces shall not be blocked and access to/from those spaces shall not be impeded.
 - iii. Parking lots under 25 stalls: Small parking lots may convert the entire lot to outdoor dining, including ADA stalls, provided that effort is made to relocate the ADA stalls near the entrance using street parking where possible.
 - iv. If there is to be a covering over the new dining area, please indicate that on the drawing. The manufacturers guidelines for installation, all City code requirements, and flame spread requirements must be followed.
 - v. Sidewalks may be utilized for outdoor dining provided there is still means for ADA compliant pedestrian traffic on the remaining portion of the sidewalk.
 - b. Applicants must demonstrate that they are the owner of the property on which the new outdoor dining space is to be located, if the applicant is not the owner of the property, the application must include the signature of the owner acknowledging that they will permit the creation or expansion of the outdoor dining area as indicated on the drawing provided as part of the permit application submitted by the requestor.

- c. Businesses shall not set up any expanded outdoor dining prior to being notified of approval.
 - d. Any indemnification or insurance shall be provided as required by the City.
2. Establishments shall comply with protocols or guidelines issued by the Illinois Department of Public Health, Centers for Disease Control or other official authority.
 3. Establishments shall comply with the City's outdoor liquor license provisions.
 4. A physical barrier shall delineate all outdoor dining areas and shall be of sufficient size and design as to deter the unintentional encroachment of vehicles into the dining area.
 5. If ample lighting is provided, the outdoor dining area shall close no later than as permitted under the Applicant's current liquor license in conjunction with indoor dining and drinking, as issued by the City.
 6. The temporary outdoor dining area shall be accessible to the disabled and shall comply with all applicable federal, state and City laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of services.
 7. Establishments may not expand outdoor dining in front of neighboring businesses without written permission from the neighboring business/property owner.
 8. No permanent plumbing, electrical and lighting fixtures shall be installed.
 9. Any temporary lighting shall be directed in a manner to not impair visibility on nearby streets and not shine onto adjacent properties.
 10. Smoking in the outdoor dining area is prohibited.
 11. Tables shall be placed to allow for a minimum of 6-foot separation (blocking tables is allowed). Public seating and eating areas shall be reduced and/or reconfigured to allow for minimum separation of 6 feet.
 12. The outdoor dining area shall not disturb the lawful use and quiet enjoyment of nearby properties.
 13. Tent canopies and enclosed tents are permitted, but any existing or proposed tent that is either a) over 400 square feet in size, or b) includes tent side walls, shall require a separate tent permit to be submitted and approved by the City. For existing tents, permits shall be obtained, or the tent shall be removed, by October 31, 2020. Unless otherwise determined by the Illinois Department of Public Health, tent canopies with 50% or more of side walls down shall be considered enclosed for indoor dining and their use shall be subject to the Department of Health Regulations for indoor dining. If the Illinois Department of Public Health implements mitigation efforts, reverts the Region back to Phase 3, or takes any other action which prohibits indoor dining, then use of enclosed tents shall be prohibited.
 14. Adequate safeguards shall be in place for security, crowd control, lighting control and the protection of minors.
 15. Bar areas are prohibited in an expanded outdoor dining area.

16. Outdoor trash receptacles shall be provided and maintained and the outdoor dining area shall be kept free from litter and debris.
17. No liquor shall be removed in open containers from the outdoor dining area.
18. Incorporation of landscaping is encouraged to enhance ambiance and improve the aesthetics of the outdoor dining area.

B. Applicant shall be required to abide by all other requirements of the Governor's Executive Orders and the requirements of the CDC, Illinois Department of Public Health, the Kane County Health Department, City of St Charles Municipal Code, and the Illinois Liquor Control Act. Failure to abide by any of these requirements may result in revocation of approval for the expanded dining area.

Attachments:

Temporary Outdoor Dining Permit
Tent Permit and Guidelines



CITY OF
ST. CHARLES
ILLINOIS • 1834

City of St. Charles TEMPORARY OUTDOOR DINING PERMIT APPLICATION

Restaurant Information	Restaurant Name:	
	Address:	
	Phone:	
24-Hour Contact	Contact's Name:	
	Contact's Signature:	Date:
	Phone:	Email:

A no-fee permit is required to allow for the establishment of a temporary outdoor dining area. Following the issuance of a permit and the establishment of the temporary outdoor dining area, the City will inspect the temporary outdoor dining area for compliance with the approved plans. Outdoor dining areas established under this permit are considered temporary and shall not constitute a property right in the form of permanent outdoor seating.

The following items must be submitted as part of the application:

- Demonstration of ownership or a letter of authorization from the property owner(s)
- A site layout plan including the overall dimensions, barriers, entrances/exits, and, traffic circulation
- A description of any proposed tents, including size, location, and need for electrical hook-ups
- Any additional information which the Mayor or designee shall find reasonably necessary to a fair determination as to whether the permit shall be issued
- Prior to issuance of the temporary outdoor dining permit, the permittee shall provide the city with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party. The required insurance policies shall each provide that they shall not be changed or cancelled during the life of the temporary outdoor dining permit.
 - o Worker's Compensation Insurance in at least the required statutory limits
 - o Comprehensive General Liability Insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property

damage with limits of at least two million (\$2,000,000) dollars per occurrence, and two million (\$2,000,000) dollars for any single injury

- [Dram Insurance](#)
- Complete indemnification/hold harmless document.

Agree to Comply with all Outdoor Dining Requirements:

- All tables must be six feet apart and located away from sidewalks and walkways
- Entrance/exit doors and fire lanes shall not be blocked
- Allow for adequate and safe parking to be maintained for customers
- A physical barrier around the outdoor dining area shall be required if alcohol is served or to protect the temporary dining area
- Tents must follow manufacturers guidelines for installation, all City code requirements, and flame spread requirements.
- If ample lighting is provided, the outdoor dining area shall close no later than as permitted under the Applicant's current liquor license in conjunction with indoor dining and drinking, as issued by the City.

Confirmation of Compliance with all Restaurant Requirements:

- Must adhere to all social distancing requirements and [restaurant guidelines set forth by the Illinois Department of Public Health](#)
- Food transported from the restaurant to the outdoor dining areas shall meet all Food Safety requirements
- Abide by all applicable requirements of the CDC, Kane County Health Department, and the Illinois Liquor Control Act.
- Regularly clean and sanitize outdoor dining areas and all frequently touched surfaces (i.e. door handles)
- Provide restrooms/handwashing inside the restaurant with social distancing

Failure to abide by any of these requirements may result in the revocation of the temporary outdoor dining permit. Businesses shall not set up any expanded outdoor dining prior to being notified of permit approval.

By checking the above boxes, I hereby agree confirm that the outdoor dining operations proposed in my application will comply with all of the above Outdoor Dining Requirements and Restaurant Requirements.

Applicant Signature: _____

Submit applications by email to:

Building and Code Enforcement

bceadm@stcharlesil.gov | 630.377.4406

City of St. Charles

Tent Permit



Building & Code Enforcement Division
2 East Main Street
St. Charles IL 60174
630.377.4406 (Office)
<http://www.stcharlesil.gov>

**Please direct any and all questions to the City of St. Charles Building & Code Enforcement Division:
Monday through Friday (8 AM to 4:30 PM) at 630.377.4406**

A building permit is required for all outdoor sales or event projects. The following are guidelines and comments for obtaining a building permit.

Application and Drawings Procedures:

- An application is to be completed.
- The following information is required to be submitted with application:
 - * Plat plan indicating:
 - a. Location of the proposed tents.
 - b. Certificate of flame proofing for tents.
 - c. Details on electric provided.
 - d. Details and location on fire extinguishers.
 - e. Location of existing parking spaces and access drives.
 - f. Manufacturers specifications on type of heater and its location on the site.
 - * **Provide whether the tent is on Private or Public property.**
- Our goal is to complete the review of your building permit within 10 working days.

Application – Permit Fees: This is a no fee permit at this time.

Owner – Business Operator

- ⇒ Compliance with above indicated codes, ordinances, and inspections required.
- ⇒ The plan reviews and stamped "FIELD COPY" of the plans are to be on the job site.
- ⇒ A minimum of 24-hour notice is required when scheduling any inspection.
- ⇒ At the end of the time period granted to sell Christmas Trees, and wreaths all trees, wreaths and any trash generated by the event shall be removed from the property. The sites shall be left in a clean and neat condition.

General Tent Requirements

- Permits shall be required for tents or temporary structures in excess of 400 square feet which are to be utilized for less than 180 days (IFC 3103.2).
- UL listed 10lb size ABC type fire extinguishers shall be available for use in the event of a fire. (IFC 3104.12).
- Exits shall be clearly marked & adequate lighting shall be provided while tent is occupied. (IFC 3102.12.6).
- Seating arrangements in tents shall be in accordance with occupancy load requirements.
Example: Tables & Chairs 15 sqft per person. (IFC 3103.11)
- The occupant load shall be posted in a conspicuous place near the main exit. (IFC 1004.3)
- Smoking shall not be permitted in the tent. "No Smoking" signs shall be posted. (IFC 3104.6).
- Propane containers shall be secured and located a minimum of 10 feet from the tent. (IFC 3104.16.2.1).
- Heating equipment shall not be located within 10 feet of the exits and installed according to the International Mechanical and Fuel Gas Codes. (IFC 3104.15.3).
- Tent shall be adequately braced and anchored to prevent against collapsing. (IFC 3103.9).

- Location of tent(s) shall not affect the number of exits or the capacity of the means of egress afforded to the existing building. (IFC 1001.2).
- Hay, straw, shavings or similar combustible materials shall not be located within any tent. (IFC 3104.5).
- Provide certificate showing flame retardant factors of the tent material. (IFC 3104.2).
- Material shall meet requirements of NFPA 701 (Sec.3104.2)
- Minimum of two-2 exits shall be provided 36-inches for membrane structures; 72-inches for tents (IFC 3103.12.2)
- Generators and other internal combustion power sources shall be separated from the tent by not less than 20 feet and shall be isolated from contact by the public with fencing or other approved means. (IFC 3104.19).
- Adequate ventilation must maintained as determined by City Staff.

Note: There may be additional requirements based on other special circumstances as they relate to the location and size of tents.

Inspections:

The following is a list of inspections, which might be required for your project.

- △ Electric
- △ Final

Building Codes:

The following are the Building Codes, which the City of St. Charles has adopted:

- * St. Charles Municipal Code
- * 2015 Int'l Building Code w/revisions
- * 2014 Nat'l Electrical Code w/revisions
- * 2015 Int'l Fire Prevention Code w/revisions

17.20.040 TEMPORARY USES – GENERAL PROVISIONS

A permit shall be required for temporary uses allowed in this Title, except that temporary uses operated or sponsored by a governmental entity and located on a lot owned by that entity do not require a permit, but shall otherwise be subject to the requirements of this Chapter.

The applicant shall submit a site plan or other suitable description to the Building & Code Enforcement Division Manager, with any required permit fee. As a condition of permit issuance, the Building & Code Enforcement Division Manager may require conformance with specific conditions regarding the operation of the temporary use as may be reasonably necessary to achieve the requirements of this Chapter. If the Building & Code Enforcement Division Manager finds that the applicable requirements have not been met, he may revoke the permit and may require the cessation of the temporary use. Where a permit for a temporary use has been revoked, no application for a new permit shall be approved within six months following revocation.

All temporary uses, including but not limited to those enumerated in Section 17.20.050 hereof, shall comply with the following requirements:

- A. No temporary use shall be established or conducted so as to cause a threat to the public health, safety, comfort, convenience and general welfare, either on or off the premises.
- B. Temporary uses shall comply with all requirements of the Fire Prevention Code and other applicable codes and regulations. If necessary to ensure the protection of public safety due to the presence of a particular hazard, the Fire Chief may require the operator of the temporary use to employ a fire watch team and/or appropriate security personnel.
- C. Temporary uses shall not obstruct required fire lanes, access to buildings or utility equipment, or egress from buildings on the lot or on adjoining property.
- D. Temporary uses shall be conducted completely within the lot on which the principal use is located, unless the City Council authorizes the use of City-owned property or right of way.
- E. When a permit is required for a temporary use, the Building & Code Enforcement Division Manager shall make an assessment of the number of parking spaces reasonably needed for the permanent uses

on the lot where the proposed temporary use is to be located, on the basis of the particular temporary use, the seasonal demand for parking on the lot at the time the temporary use is proposed, and the availability of other public and private parking facilities in the area. The Building & Code Enforcement Division Manager may deny the permit for a temporary use if he finds that the temporary use will result in inadequate parking being available for permanent uses on the same lot that are not connected with the business proposing the temporary use.

- F.** During the operation of the temporary use, the lot on which it is located shall be maintained in an orderly manner, shall be kept free of litter, debris, and other waste material, and all storage and display of goods shall be maintained within the designated area. Storage of goods for sale shall be no more than five (5) feet in height.
- G.** Signs for a temporary use shall be permitted only in accordance with the Chapter 17.28, Signs.



Department: Building & Code Enforcement Division Phone: (630) 377-4406

Application for Building Permit – Tents

Application Date: _____ Parcel No. _____ Permit No. _____

Please Print All Information

I, do hereby apply for a permit for the following work located at _____

Description of proposed work: _____ Estimated Cost: _____

Check List for Submittal of Application:

- Building Permit Application – Completely Filled Out.
- Two-2 copies of the Plat of Survey or site plan showing:
 - a. Location of the proposed tents
 - b. Certificate of flame proofing for tents.
 - c. Details on electric provided.
 - d. Details and location on fire extinguishers.
 - e. Location of existing parking spaces and access drives.
 - f. Manufacturers specifications on type of heater and its location on the site

† Provide whether the tent is on Private or Public property

- Signature of authorization from the owner.

† Period of time requested for Open Sales Lot or Outdoor Sales Area.

Date of Installation: _____ Date of Removal: _____

- Refer to Information Packet for Detailed Information

Owner of Property

Name: _____
Address: _____
City/State/Zip Code _____
Email: _____
Phone: _____

Applicant/Contact

Name: _____
Address: _____
City/State/Zip Code: _____
Email: _____
Phone: _____

General Contractor

Name: _____
Address: _____
City/State/Zip Code _____
Email: _____
Phone: _____

Electrical Contractor

Name: _____
Address: _____
City/State/Zip Code: _____
Email: _____
Phone: _____

Continued on reverse side

Please Print All Information

I, the undersigned, certify that if a permit is issued to me, I will comply with all provisions of the building, plumbing, electric and other applicable ordinances of the City of St. Charles and shall perform all work, or cause all work to be performed according to the provisions of said ordinances. I, or my agent, shall personally supervise the work and shall do, or cause to have done, said work according to plans, specifications and other written information supplied as a part of this application. I am familiar with the applicable ordinances and the provision thereof and in signing this application do willingly become responsible for all work accomplished under the permit by all contractors, tradesmen and workmen, and shall call for inspections as required at a minimum of 24-hours before they become due.

Applicant Signature

Authorized Signature of Property Owner
(if different from applicant for a temporary sign, banner, etc.)

Report of the Building Official

Remarks: _____

Accepted: _____ Rejected: _____ Date: _____

Signed: _____

01.2019

For Office Use
Received _____
Fee Paid: _____
Receipt #: _____
Check #: _____
