



Legislation Text

File #: 61932, **Version:** 2

Fiscal Note

The proposed resolution extends the end date of the Streatery program from October 25, 2020 to the last day of the current street vending season on April 14, 2021. Adopted RES-20-00439 (File 60695) allowed restaurants and taverns to expand outdoor service areas and Adopted RES-20-00337 (File 60117) waived all street vending license fees for the duration of the current vending season. As stated in RES-20-00439, there will be minor negative fiscal implications from the waiver of application fees associated with zoning, temporary liquor license expansions, and street occupancy permit applications (\$50, \$25, and approximately \$200 per application, respectively). Any remaining fiscal impact would come from the monthly fee associated with taking over a parking area through a street occupancy permit, if a café expands into the roadway.

Title

SUBSTITUTE. Extending the Streatery Program authorizing special approvals for outdoor eating spaces for restaurants and taverns, through April 14, 2021.

Body

~~INTRODUCED BY TITLE ONLY.~~

WHEREAS, on March 17, 2020, Public Health Madison & Dane County announced that community spread of COVID-19 was occurring in Dane County, with the first confirmed community death being reported on March 25; and,

WHEREAS, COVID-19 has come with unprecedented challenges to our local economy, including to restaurants and taverns, which were unable to serve indoor or outdoor customers from March 23, 2020 to May 26, 2020; and,

WHEREAS, on May 26, 2020, the local health officer of Public Health Madison and Dane County (PHMDC) issued Emergency Order #3, allowing restaurants and taverns to resume indoor service at 25% capacity and outdoor seating, provided that stools inside taverns are spaced six (6) feet apart and tables inside and outside of restaurants and taverns are spaced six (6) feet apart with a limit of six (6) people per table who are members of the same household; and

WHEREAS, since May 26, 2020, PHMDC has issued additional superseding public health orders with similar restrictions for restaurants and taverns to operate at limited indoor capacities; and

WHEREAS, Mayoral Emergency Order and Common Council Resolution (Legistar File 60695) (the "Streatery Program") allowed restaurants and taverns to establish or expand outdoor service areas in order to serve more customers outside while adhering to PHMDC Orders, requirements, and guidelines; and,

WHEREAS, the Streatery Program has allowed restaurants and taverns to begin recovering from the severe economic consequences of COVID-19; and

WHEREAS, the Streatery Program is set to expire on October 25, 2020, at which time all approvals granted under the program will expire; and

WHEREAS, restaurant and tavern owners have expressed a desire for the City to extend the Streatery Program so that they can continue operating their outdoor service areas with the special, expanded options authorized by this program, beyond October 25, 2020; and,

WHEREAS, extending the Streatery Program through the Spring will continue aiding in the recovery of the

local economy while ensuring adherence to PHMDC's Orders, requirements, and guidelines; and

WHEREAS, the Mayoral Emergency Order issued on March 26, 2020 and adopted by Resolution (RES-20-00337, File No. 60117), waived all street vending license fees (including those for sidewalk cafes) for the duration of the street vending season, and the first Streatery Resolution waived a number of other fees to facilitate Streatery and those additional fees will continue to be waived if this resolution is adopted;

NOW THEREFORE BE IT RESOLVED that the Streatery Program and all approvals granted pursuant to it shall be extended until April 14, 2021 (the last day of the current street vending season) provided the establishments are in compliance with the regulations of the Streatery Program, including the minimum requirements listed below; and,

BE IT FURTHER RESOLVED that the following City of Madison Ordinances shall remain suspended as provided in the Streatery Program until April 14, 2021:

M.G.O. § 9.13(4)

M.G.O. § 9.13(5)

M.G.O. § 9.13(6)(j)2. and 4.

M.G.O. § 9.13(6)(l) 1.d

M.G.O. § 9.13(12)(d)7., (12)(e), (12)(f)3., (12)(h)3.

M.G.O. § 9.13(6)(c)

M.G.O. § 9.13(9)

M.G.O. Subchapters 28C-28I (Zoning Code)

M.G.O. § 28.151

M.G.O. § 28.206 (fees)

M.G.O. § 10.055 (provisions applicable to duration) and (8) (fees)

M.G.O. § 12.122(1)(a)

M.G.O. § 33.56(5)(b)1.-2.

M.G.O. § 38.05(3)(a)1.

M.G.O. § 38.07(7)

M.G.O. § 38.05(3)(a)1(a) (fees)

M.G.O. § 38.07(5)-(6)

BE IT FURTHER RESOLVED, that administrative approval of City staff is required for any outdoor seating area authorized by the Streatery Program, including the Street Vending Coordinator (sidewalk cafes); the Zoning Administrator (outdoor eating areas on private property); Traffic Engineering (Street Occupancy

Permit); and the City Clerk and Alcohol Licensing Review Committee (ALRC) (temporary expansion of existing alcohol licensed premises); and

BE IT FURTHER RESOLVED, that in addition to any requirement set administratively by staff during the approval process, all restaurants and taverns allowed to establish sidewalk cafes, outdoor eating areas, or an expanded licensed premises under the Streatery Program shall also be subject to the following minimum requirements:

- a. Restaurants and Taverns in the Right-of-Way. Any restaurants or taverns with a new or expanded sidewalk café license under this program shall be approved by the Street Vending Coordinator as provided in the Mayor's Emergency Order. In addition, when approving a new or existing sidewalk café license under this program, the Street Vending Coordinator shall provide notice to the District Alder of the application and any subsequent approval.
- b. Restaurants and Taverns on Private Property. Any restaurants or taverns with a new or expanded outdoor eating area approval under this program shall be approved by the Zoning Administrator as provided in the Mayor's Emergency Order and shall abide by the following minimum requirements:
 - i. Hours of Operation
 1. New outdoor eating areas must close by 10:00 p.m. (Sunday - Thursday)
11:00 p.m. (Friday - Saturday).
 2. Expanded existing outdoor eating areas must close by the time set in existing conditional use approval.
 - ii. No amplified sound in new or expanded existing outdoor eating areas.
 - iii. The Zoning Administrator shall ensure that any new or expanded outdoor eating area is also approved by Traffic Engineering and the Madison Fire Department. The Zoning Administrator shall also provide notice of the application and any subsequent approval to the District Alder.
 - iv. To the extent that any of the minimum regulations contained above conflict with the minimum regulations contained in the Mayor's Emergency Order, the above regulations apply.
- c. Street Occupancy Permits for Sidewalk Café Licenses. Prior to approving a street occupancy permit for a new or expanded sidewalk café in the city roadway as provided in the Streatery Program, the Traffic Engineer shall ensure that the District Alder is notified of the application and any subsequent approval.
- d. Signage Required for Restaurants and Taverns in the Right-of-Way and on Private Property. All new or expanded outdoor eating areas and sidewalk café licenses shall post a sign with language provided by the City directed outward from the seating area to inform the public that the new or expanded sidewalk café or outdoor eating area is intended to help offset the impact of COVID-19 and expires on April 14, 2021, and that maintaining the outdoor area beyond that date will require regular city approvals. The sign shall also contain information related to how residents can submit complaints to the City regarding the operation of the outdoor eating area or sidewalk café license.
- e. No Beer Gardens. This program is intended to create outdoor seating for restaurants and taverns. Under no circumstances do approvals for new or expanded sidewalk cafes or outdoor

eating areas allow for the creation of a "beer garden" or other social gathering space for patrons to stand and congregate to drink for any purpose, unless the orders of PHMDC are changed to expressly allow it. All outdoor seating areas approved pursuant to this program must follow all PHMDC orders and regulations, including those related table spacing and bar-stool placement for on-premises spaces. It is the responsibility of the establishment to know and abide by those regulations.

- f. Snow Plan. Any restaurant or tavern operating a café in the roadway pursuant to a Street Occupancy Permit in any part of the City may not operate under the Streatery Program after October 25, 2020 unless they have a Snow Plan approved by the Streets Superintendent. Additionally, any restaurant or tavern operating a café in the State Street Mall/Capitol Concourse Area as described in M.G.O. § 9.13(6)(a)2. may not operate under the Streatery Program after October 25, 2020 unless they have a Snow Plan approved by Parks Division Mall Maintenance section. Such snow plans will detail how the establishment will remove snow from their outdoor service area, including how they will accommodate the City's efforts to remove snow from sidewalks and roadways. When completing a Snow Plan, operators may be required to sign a waiver of liability related to city snow removal services. Failure to abide by an approved Snow Plan may result in Approval Modification under subdivision g. below.
- g. Modification of Approvals. Any temporary approval may be modified by the Zoning Administrator (outdoor eating areas on private property), Street Vending Coordinator (sidewalk cafes), or Traffic Engineer (street occupancy permit) as deemed necessary to fulfill the purpose of the program and ensure continued compliance with PHMDC orders, requirements, and guidelines.
- h. Compliance with other regulations. Unless suspended above, all other Madison General Ordinances apply to Streatery establishments, including, but not limited to, ordinances related outdoor heating units, propane tank storage, tents, and snow removal. It is the responsibility of the Streatery establishment to comply with all regulations. Operators using outdoor heating units on City sidewalks may be required to sign an agreement relating to liability for their use.

BE IT FURTHER RESOLVED, that the full closure of streets, such as State Street, during the Streatery Program was done by separate action to aid the Streatery Program, but was not part of the program itself and nothing about this Resolution authorizes the full closure of streets absent separate action by the City; and

BE IT FURTHER RESOLVED, nothing about the Streatery Program impacts the ability of a restaurant or tavern owner who had approval for an outdoor service area before the creation of the Streatery Program from operating in their originally approved areas; and

BE IT FINALLY RESOLVED, that approval of any expanded sidewalk café license, outdoor eating area, alcohol license expansion, or street occupancy permit is temporary and subject to continued compliance with all applicable federal, state and local laws and Public Health Madison and Dane County Orders, requirements, and guidelines.

This Resolution will remain in effect until April 14, 2021.