

EMERGENCY ORDER

WHEREAS, on March 23, 2020, I issued a Proclamation of Emergency due to COVID-19, which Proclamation was ratified by the Common Council on March 31, 2020 by RES-20-00286 and will continue to be in effect until June 2, 2020.

WHEREAS, Under the City's emergency proclamation, I am authorized, after consultation with the City Attorney, to issue orders to suspend the operation of, amend, create, or adopt city policies or ordinances, and suspend enforcement actions, that are not in conflict with existing state or federal laws, in order to mitigate the effects of the coronavirus pandemic on city workers, residents of, and businesses within the City of Madison, including the power to take such actions as are appropriate to protect the health, safety and welfare of the City and its residents.

WHEREAS, therefore, effective immediately, I hereby Order the following so that restaurants beginning to recover from the COVID-19 pandemic may establish or expand outdoor eating areas in private parking lots, sidewalks, and roadways, if approved administratively by the City staff listed below and **if consistent with all applicable health codes and Emergency Orders, requirements and guidelines promulgated by Public Health Madison Dane County**, as follows:

1. **Temporarily expanding the boundaries of existing sidewalk café licenses and temporarily authorizing new sidewalk cafes to provide additional outdoor restaurant seating.**
 - a. Temporarily suspend all applicable provisions of the following Madison General Ordinances, *except* those provisions requiring a minimum 6' pedestrian clearance, those required for Americans with Disabilities Act (ADA) compliance, and those affecting parking restrictions for persons with disabilities. This suspension will allow restaurants with a sidewalk café license to erect cafés with a larger footprint in the public right-of-way, and to allow restaurants that are ineligible for sidewalk cafes due to space restrictions to be eligible, to facilitate compliance with applicable PHMDC Emergency Orders, requirements and guidelines, including physical distancing, for restaurant seating and service:
 - M.G.O. § 9.13(4) General Restrictions on Street Vending
 - M.G.O. § 9.13(5) Citywide Sidewalk Cafes
 - M.G.O. § 9.13(6)(j)2. and 4. Related to Mall/Concourse Sidewalk Cafes
 - M.G.O. § 9.13(6)(l) 1.d – Equipment removal overnight
 - M.G.O. § 9.13(12)(d)7., (12)(e), (12)(f)3., (12)(h)3. – TOSVOD area
 - b. Temporarily suspend all applicable provisions of the "Regulations Governing Vending on the State Street Mall/Capitol Concourse" promulgated by the Vending Oversight Committee and adopted under

M.G.O. § 9.13(6)(c), *except* those provisions requiring a minimum 6' pedestrian clearance, those required for Americans with Disabilities Act (ADA) compliance, those affecting parking restrictions for persons with disabilities, and section XIII.B.3. regarding signs, *except* regulatory signs regarding health department requirements that are entirely within the café enclosure may be approved. Further, any change to the existing requirements for café enclosures shall be approved by the Risk Manager. This suspension of regulations will allow restaurants with a sidewalk café license to operate cafés with a larger footprint in the public right-of-way, and to allow restaurants that are ineligible for sidewalk cafes due to space restrictions to be eligible, to facilitate compliance with applicable PHMDC Emergency Orders, requirements and guidelines, including physical distancing, for restaurant seating and service.

- c. The Street Vending Coordinator or designee is granted authority to waive the ordinances and regulations cited in paragraphs 1.a. and 1.b. as needed, and to approve alternative sidewalk café dimensions, locations, equipment, enclosures, furniture type and style, and other appropriate approvals, on a case-by-case basis, consistent with the purpose of this Order. **The Street Vending Coordinator shall ensure that any such alternative arrangements allowing a café to expand is acceptable to the Traffic Engineer, Parking Division Manager and Risk Manager.**
 - d. Any violations of the alternate sidewalk café arrangements approved by the Street Vending Coordinator pursuant to this Order shall be enforceable as ordinance violations under M.G.O. § 9.13(9), Madison General Ordinances.
 - e. Fees associated with the establishment or expansion of a sidewalk café license were previously waived for 2020.
 - f. Any approval provided under this Order shall be temporary and expire on October 25, 2020.
2. **Temporarily establishing or expanding outdoor eating areas in private parking areas accessory to existing restaurants, restaurant/taverns, and other food service uses under the Zoning Code.**
- a. Temporarily suspend all provisions of M.G.O. Subchapters 28C-28I (Zoning Code) and M.G.O. § 28.151 that either do not allow accessory outdoor eating areas, require conditional use approval for accessory outdoor eating areas, or otherwise limit expansion of accessory outdoor eating areas that are accessory to restaurants, restaurant/taverns, brewpubs, coffee shops/teahouses, and restaurant/nightclubs as those uses are defined by M.G.O. § 28.211. Subject to administrative approval by the Zoning Administrator, this Order will allow the above uses to establish outdoor eating areas or expand existing outdoor eating areas in

accessory private parking areas, thus increasing overall food service capacity and facilitating compliance with applicable PHMDC Emergency Orders, requirements and guidelines, including physical distancing, for restaurant seating and service. This Order does not apply to Taverns as defined by M.G.O. § 28.211.

- b. The Zoning Administrator or designee is granted authority to waive the ordinances cited in paragraphs 2.a. as needed, and to approve a temporary outdoor eating area as described above, including all operational aspects of the outdoor eating area's dimensions, locations, parking lot modifications, operations, and other appropriate approvals, on a case-by-case basis, consistent with the purpose of this Order and subject to the inclusion of the requirements provided in 2.c. below.
- c. All outdoor eating areas approved pursuant to 2.b. shall have at least the following requirements:
 - i. Hours of Operation
 - 1. New Outdoor Eating Areas: 7:00 a.m. – Dusk
 - 2. Expanded existing Outdoor Eating Areas: Hours shall be set as provided in existing conditional use approval.
 - ii. No outdoor amplified sound in new or expanded outdoor seating areas.
 - iii. Additional Exterior lighting required for any expanded existing outdoor seating areas operating after dusk.
 - iv. The Zoning Administrator shall ensure that any new or expanded outdoor eating area must also be approved by Traffic Engineering and the Madison Fire Department.
- d. Any violations of the accessory outdoor eating area approved by the Zoning Administrator pursuant to this Order shall be enforceable by the Zoning Administrator as ordinance violations under Chapter 28, Madison General Ordinances.
- e. The City will temporarily suspend enforcement of M.G.O. § 28.206 regarding collection of fees associated with an application for the temporary expansion allowed by this Section.
- f. Any approval provided under this Order shall be temporary and expire on October 25, 2020.

- 3. Temporary use of the roadway to facilitate the expansion of sidewalk cafes.**
 - a. Any restaurant wishing to expand into the roadway pursuant to Section 1 of this Order must obtain a Street Occupancy Permit from Traffic Engineering. However, this Order temporarily suspends provisions of M.G.O. § 10.055, Occupancy of Streets or Other Public Areas, that relate to the duration of the permit, to allow a Street Occupancy Permit to be issued for more than ninety (90) days for a café that is approved by the Street Vending Coordinator to expand in to the roadway, pursuant to Section 1 of this Order.
 - b. Temporarily suspend applicable provisions of M.G.O. § 10.055(8), Permit Fees, to waive all application and permit fees associated with a Street Occupancy Permit issued under this Order.
 - c. Any Street Occupancy Permit issued for a café that is approved by the Street Vending Coordinator to expand in the roadway, pursuant to Section 1 of this Order, shall expire no later than October 25, 2020.

- 4. Temporary suspension of certain parking regulations to facilitate the expansion of sidewalk cafes into the roadway.**
 - a. The Parking Division Manager may temporarily suspend enforcement of M.G.O. § 12.122(1)(a) (Parking, Stopping, and Standing), and related sections of Chapter 12 that regulate on-street parking, as deemed appropriate to (i) allow restaurants to provide curbside pick-up services for customers, and (ii) to create space in the roadway for an expanded sidewalk café approved by the Street Vending Coordinator pursuant to Section 1 of this Order. This Order includes, but is not limited to, the authority to suspend section 12.1425, "Temporary No Parking Zones – On Street Meters" to allow the Parking Division Manager to approve meter bags for purposes other than currently authorized in that section and reduce or waive daily fees for meter bags, and to suspend section 12.145 regarding payment on-street meter times, fees and rates.
 - b. The City will temporarily suspend the enforcement of Madison General Ordinance Sec. 33.56(5)(b)1.-2. to allow the Parking Division Manager to take actions for the purposes described in Section 4.a. above.
 - c. Any action taking by the Parking Division Manager pursuant to the authority in this section shall expire on October 25, 2020.

- 5. Temporary expansion of existing alcohol licensed premises.**
 - a. Temporarily suspend M.G.O. § 38.05(3)(a)1. to allow for the temporary expansion of an existing licensed premises that is licensed as a restaurant pursuant to Wis. Stat. Sec. 254.61(5) and M.G.O. § 38.02, and whose sale of alcohol beverages accounts for fifty percent (50%) or less of the

establishment's gross receipts. This will allow such establishments with existing liquor licenses to serve alcohol in new or expanded sidewalk cafes or outdoor eating areas approved under this Order, provided that any such expansion is provisionally approved by the City Clerk's Office after the filing of a temporary expansion of licensed premises form detailing the boundaries of the expansion. A licensee may apply to the City Clerk after receiving approval of an expanded eating area under Sections 1., 2., or 3. of this Order, where applicable.

- i. The boundaries of any expansion sought under this section shall not be larger than the dimensions of the sidewalk café or outdoor eating area approved under Sections 1 and 2 of this Order.
 - ii. Any provisional approval under 5.a. shall be acted on as soon as practicable by the Alcohol Licensing Review Committee (ALRC). If the ALRC denies the expansion, any provisional approval under 5.a. is void.
- b. Temporarily suspend M.G.O. § 38.07(7) prohibiting open containers of alcohol in the street, in sidewalk cafes in the right-of-way approved for expansion under Sections 1 and 5.a. above.
 - c. Any violations associated with the temporary expansion of the licensed premises under provisional approval of the City Clerk shall be enforced as ordinance violations under Chapter 38, Madison General Ordinances. Any violations after the ALRC approves the temporary expansion shall be enforced according to regular enforcement procedures for liquor license violations under Chapter 38.
 - d. The application fee required by M.G.O. § 38.05(3)(a)1(a) is waived.
 - e. Any approval of a temporary expanded licensed premise under this section shall be temporary and expire on October 25, 2020. Upon such expiration, the boundaries of the licensed premises shall revert back to the Licensee's original licensed premises on file with the City Clerk.


Nothing in this Order is intended to allow for the creation of social gathering spaces in private parking areas, sidewalks, or roadways for purposes other than dining. Rather, the intent of this Order is to provide restaurants with more space to serve dining customers in a manner that is consistent with Public Health Madison Dane County Orders, requirements, and guidelines.

This Order shall be effective until October 25, 2020.

Where these Orders affect a legislative enactment a resolution confirming these Orders will be presented for introduction to the Common Council on June 2, 2020 and referred to a future meeting for confirmation.

5/27/2020

Date



Satya Rhodes-Conway, Mayor