



Board of Public Works Staff Report

Project/Event: Temporary Closure of Kirkwood Avenue and Temporary Expansion of Seating Encroachments; Resolution 2020-28

Petitioner/Representative: City of Bloomington Economic and Sustainable Development

Staff Representative: Michael Rouker, City Attorney and Alex Crowley, Director of Economic and Sustainable Development

Meeting Date: June 9, 2020

For the weekend of June 19, 2020, and potentially during future weekends, the City is planning on closing portions of Kirkwood Avenue and expanding existing seating encroachments further into the right-of-way. These measures are designed to assist the local business community by adding seating capacity as part of our ongoing economic recovery from the COVID-19 pandemic.

As part of this expansion, the City Council will be waiving certain requirements in Title 12 of the Municipal Code governing seating encroachments. Resolution 2020-28 formalizes these changes, which are also going to be formalized by the City Council via Ordinance 2020-11.

Staff strongly supports the expansion of seating capacity during road closures further into the right-of-way, and therefore staff recommends that the Board adopt Resolution 2020-28.

Respectfully Submitted,

Michael Rouker
City Attorney

RESOLUTION 2020-28

Authorizing the Planning & Transportation Department to Utilize an Alternative Procedure for Sidewalk Seating Encroachments and to Approve Applications for Said Encroachments as Part of an Initiative to Assist the Local Business Community's Recovery Following the COVID-19 Pandemic

- WHEREAS, the City of Bloomington, along with the rest of the country, remains in the midst of a public health emergency due to the COVID-19 pandemic; and
- WHEREAS, both state and federal governments have declared a disaster emergency for the COVID-19 pandemic; and
- WHEREAS, on March 16, 2020, Governor Holcomb issued Executive Order 20-04, which ordered food service establishments to close service to in-person patrons; and
- WHEREAS, on March 23, 2020, Governor Holcomb issued Executive Order 20-08, which ordered all non-essential businesses to close; and
- WHEREAS, businesses throughout Bloomington have suffered due to the ongoing pandemic and subsequent economic fallout from required closures; and
- WHEREAS, in accordance with *Ordinance 20-09 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" and to Grant Authority to Act in Accordance with Declared Disaster Emergencies - Re: Amending 2.22.030 Entitled "Employee Policies" and Complying with the State of Indiana's Declaration of Disaster Emergency under I.C. § 10-14-3-12* and the powers it may exercise under Home Rule, the City is taking several proactive measures to assist the Bloomington business community's recovery; and
- WHEREAS, pursuant to Chapter 12.06 of the Bloomington Municipal Code, the Board has authority to grant final approval of all sidewalk seating encroachment applications; and
- WHEREAS, the City Council is currently considering Ordinance 20-11 which proposes a temporary waiver of certain formalities related to seating encroachments and other municipal regulations, and
- WHEREAS, among the measures being taken by the City to address the economic fallout felt by Bloomington's local business community is a request that the City close portions of Kirkwood Avenue to vehicular traffic in order to expand seating capacity into the right-of-way so that local businesses may safely serve additional patrons; and
- WHEREAS, a temporary relaxation of the City's seating encroachment regulations would assist the local business community with its ongoing recovery;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS FOR THE CITY OF BLOOMINGTON, INDIANA,

Section 1. For the weekend of June 19 through June 21, 2020, for the limited purpose of those areas along Kirkwood Avenue where the City will be closing the roadway to vehicular traffic, the City’s Seating and Merchandising Encroachment Application and other rules related to seating encroachments are modified as described in proposed City Council Ordinance 20-11, portions of which are copied below. The specific temporary measures related to sidewalk seating encroachments are as follows:

1. Allow the Kirkwood Community Association to submit a single application for an additional Seating & Merchandizing Encroachment on behalf of all participating restaurants.
2. The following portions of the City’s application for a seating encroachment shall be temporarily suspended:

Under Seating and Retail Requirements:

Suspend:

“(1) Proposed use, materials, colors and design”

“(2) Relationship of the outdoor seating to the adjacent existing building with identified uses and entrances;”

“(5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;”

Add:

Require proof of approval from the Monroe County Department of Health and, where applicable, Indiana Alcohol and Tobacco Commission.

Under Additional Requirements:

Suspend:

“(2) Application / Renewal Fee: To process an initial application, or renewal, for an outdoor seating or merchandising encroachment permit at a specific location, the fee is \$100.00. Only payment by cash, check or money order made payable to the City of Bloomington will be accepted. No application will be processed until the fee is collected in full.”

“(3) No fee shall be charged for processing applications for encroachments that will be limited to four days or less in a calendar year.”

“(4) No refund shall be made where a permit is revoked or suspended for any reason. “

Add:

Each participating business must submit a certificate of insurance to the Planning and Transportation Department establishing proof of a comprehensive general liability policy naming the City of Bloomington as additional insured to the extent of at least \$500,000 bodily injury and \$100,000 property damage, which shall be in effect during the term of this authorization.

Under Permit Issuance and Conditions:

Add:

“(1) Each permit shall be effective for *the period of approval granted by the Board of Public Works or staff, as the case may be.*”

“(7) All signage must be in compliance with the Bloomington Municipal Code *and/or any temporarily altered signage requirements.*”

Section 2. Staff at the Planning and Transportation Department are authorized to receive and give final approval to an application submitted by the Kirkwood Community Association for additional seating encroachments during the weekend of June 19 through June 21, 2020, and for subsequent weekends through September 30, 2020, provided that the submitted application meets all requirements as modified by this Resolution and by anticipated City Council Ordinance 20-11. No additional approval from this Board shall be required.

Section 3. This Resolution shall only have any force and effect provided that the City Council passes proposed Ordinance 20-11. It is anticipated that the City Council will consider Ordinance 20-11 for final approval on June 17, 2020. In the event that Ordinance 20-11 is approved with no significant substantive changes that would have an impact on this Resolution, this Resolution may be considered to be in full force and effect upon passage of Ordinance 20-11 by the City Council.

Section 4. These unique measures are temporary in nature, and shall be in place until September 30, 2020, unless said measures are extended by the City Council or this Board, as the case may be.

PASSED AND ADOPTED by the Board of Public Works of the City of Bloomington, Monroe County, Indiana, upon this 9th day of June, 2020.

BOARD OF PUBLIC WORKS:

Kyla Cox Deckard, President

Beth H. Hollingsworth, Member

Dana Palazzo, Member