

COUNCIL ACTION FORM

**SUBJECT: REQUEST FROM MOTHER'S PUB (2900 WEST STREET) TO
ALLOW ALCOHOL SERVICE AT A SIDEWALK CAFÉ**

BACKGROUND:

In 2017, the City Council adopted new regulations regarding Sidewalk Cafés. These regulations allow for alcohol service in certain circumstances. Establishments that, under Section 17.16 of *Municipal Code*, may allow minors on the premises are permitted to serve alcohol at their sidewalk cafés without prior special approval. These applications are approved by staff. Establishments that are not allowed to have minors on the premises under Section 17.16 of *Municipal Code* must request approval from the City Council to serve alcohol at their sidewalk cafés.

Mother's Pub (2900 West Street) has submitted a request to implement a sidewalk café and serve alcohol at it. Mother's Pub has a Class C Liquor License and, because a majority of its sales come from selling alcoholic beverages during portions of the day, may not have minors on the premises after 4:00 p.m., according to Section 17.16 of *Municipal Code*. Therefore, approval from the City Council is required to allow alcohol service at its proposed sidewalk café. Additionally, approval of an Outdoor Service Privilege is necessary to allow alcohol service in the proposed café.

The sidewalk café regulations call for the City Council to consider requests from establishments in Mother's Pub's situation on a case-by-case basis. The Code specifies that the City Council shall consider the following factors when presented with a request:

Site Conditions – Mother's Pub's proposed site is open and unobstructed by existing street furniture, utility accesses, or other equipment. This is a particularly wide area of sidewalk, and the only potential obstruction is a single parking meter stand. The proposed sidewalk café will utilize five tables and will take up five feet of the 13-foot sidewalk. There are several large windows in the front of the establishment that will allow staff to monitor the entire sidewalk café from inside the building. Management at the establishment indicate that there will always be at least two staff members present who can check the café regularly and monitor it for issues.

Compliance History/Staff Training – This is the third year in which Mother's Pub will operate a sidewalk café with alcohol service. A review of Police records indicates that no alcohol-related calls for service at Mother's Pub in the past year.

Other Factors the Council Deems Relevant – Requests such as this are rare. In prior instances, the City Council has not indicated any additional factors that should be taken into consideration by staff when evaluating these requests. However, should the City Council have specific concerns now, staff could request additional information from the

applicant before the Council moves forward with approving or denying the request.

In addition to the above three specific issues the Council must take into consideration with this request, the *Municipal Code* requires that any sidewalk café at which alcohol is served must operate with additional restrictions compared to those where alcohol is not served. The additional, required restrictions that would apply to Mother's Pub are:

- Patron ingress and egress shall be controlled and continually monitored by staff
- No alcoholic beverages may be sold or served later than 10 p.m.
- Patrons may not consume outside beverages on the premises

Finally, the *Municipal Code* empowers the City Council to impose special conditions on any sidewalk café granted an exception to dispense alcohol if it feels such restrictions are appropriate.

It should be noted that in other instances where exceptions of this type are requested, the Council's approval has only been valid for the current sidewalk café season. Approval from the City Council is required for subsequent years, thereby allowing staff to report regarding the safety and success of the alcohol service.

The Governor's public health order as of May 22 does not permit on-premises service at a bar. It is expected that this restriction will be lifted in the coming days or weeks. Therefore, if this request is approved, it must be conditioned upon 1) bars being allowed to re-open by the state, and 2) compliance with any hygiene or social distancing restrictions required by the state.

ALTERNATIVES:

1. Approve the requests from Mother's Pub for an Outdoor Service Privilege and a waiver to allow alcohol service at its sidewalk café during the 2020 sidewalk café season, subject to: 1) the Governor's public health orders allowing bars to re-open to on-premises service, and 2) compliance with any social distancing or hygiene conditions the Governor may impose upon bars.
2. Refer the request to staff for additional information.
3. Deny the request.

CITY MANAGER'S RECOMMENDED ACTION:

City staff has on occasion had issues with compliance at bars hosting events where alcohol is being served outside. Due to both these factors, City staff believes requests to serve alcohol outside on an ongoing basis at establishments where little to no food service will occur should be closely scrutinized.

In this instance, the establishment has good compliance record, and the site conditions and other factors lend to a more easily controlled environment where alcohol would be

served. The applicant appears to have a good understanding of the requirements in place for compliant service.

The Council should note that the alternatives presented indicate approval is for only the 2020 sidewalk café season (April through October, according to *Municipal Code*). Sidewalk café applications must be completed new each season; they do not carry over from year-to-year. The experience from this season can be evaluated if Mother's Pub requests to be able to host a sidewalk café again in the future.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as described above.