

ORDINANCE NO. 2020 - 04

CITY OF ST. CLAIR

COUNTY OF ST. CLAIR, MICHIGAN

AN EMERGENCY ORDINANCE OF THE CITY OF ST. CLAIR, ST. CLAIR COUNTY, MICHIGAN TO TEMPORARILY SUSPEND ENFORCEMENT OF APPENDIX B OF THE CITY'S CODE OF ORDINANCES "ZONING," ARTICLE 8B "DOWNTOWN REDEVELOPMENT DISTRICT," SECTION 31 "SPECIAL APPROVAL USE PROVISIONS," SUBSECTION 1 "OUTDOOR OR SIDEWALK CAFE," AS WRITTEN, THROUGH OCTOBER 31, 2020, AND TO ADOPT TEMPORARY REGULATIONS ALLOWING ADMINISTRATIVE APPROVALS FOR SUCH SPECIAL APPROVAL USES DURING THIS INTERIM PERIOD.

THE CITY OF ST. CLAIR ORDAINS:

SECTION 1. ENACTING CLAUSE.

Section 8.31.1 of the City Code of Ordinances, as written, is hereby temporarily suspended through October 31, 2020. The following emergency ordinance is adopted under Section 5.10(a) of the City Charter to establish temporary regulations and to provide for the administration, enforcement and extension thereof.

SECTION 2. DECLARATION OF EMERGENCY.

City Council, by adoption of this emergency ordinance, determines that an emergency exists at the time of adoption, as described below:

Public Health: The spread of COVID-19 is a demonstrated a public health threat, as illustrated by the World Health Organization's March declaration of a pandemic; the President's March declaration of a National Emergency; and the Governor's March declaration of a state of emergency.

Economic Impact: The restrictions placed on public life in St. Clair have caused severe hardships to many businesses and citizens in the City, by limiting or closing businesses for significant periods of time.

Continuing Emergency: The threat posed by COVID-19 likely presents an ongoing emergency until a vaccine has been developed or a significant portion of the population has developed immunity.

SECTION 3. PURPOSE.

The purpose of this emergency ordinance is to:

1. Meet a public emergency affecting public health, safety and welfare related to the COVID-19 pandemic;
2. Promote community welfare by encouraging business operations and employment in a safe manner;
3. Mitigate the harmful effects of the COVID-19 pandemic in the City;

4. Provide guidance for businesses and staff in applying this emergency ordinance;
5. Allow a more timely administrative response and approval processes than is otherwise available through existing City ordinances, resolutions, or processes;
6. Ensure equal protection and due process for all parties availing themselves of this emergency ordinance and those parties who may face potential negative impacts from the application of this emergency ordinance.

SECTION 4. SCOPE.

The scope of this emergency ordinance is outlined below:

1. Period. All approvals granted under this emergency ordinance shall be effective until October 31, 2020.
2. Conflicting Ordinances or Resolutions. While this emergency ordinance is effective, it shall be controlling wherever it conflicts with other ordinances or resolutions and those conflicting provisions shall be suspended; specifically, Section 8.31.1 of the City's Zoning Ordinance. This emergency ordinance shall not prohibit any entity from applying for approvals using those ordinances or resolutions, if they so prefer.
3. Establishment of Rights. Approvals under this emergency ordinance are temporary in nature, expire on October 31, 2020, and do not establish any vested rights.
4. Other Laws. This emergency ordinance does not suspend compliance with applicable state, county, or federal law, except as explicitly stated in this emergency ordinance.

SECTION 5. ESTABLISHING AND DEFINING SOCIAL DISTRICTS.

This emergency ordinance establishes Social Districts. A Social District is an outdoor area of public or private property, immediately adjacent to a retail business, a restaurant, or a business licensed to serve alcohol, on which a business owner wishes to serve its customers.

SECTION 6. SOCIAL DISTRICT APPROVAL PROCESS.

- A. Requirements: Owners/operators of businesses seeking to establish Social Districts for the purpose of outdoor service on public or private property shall:
1. Provide a to-scale drawing to administration of the proposed Social District, including any proposed encroachment into publicly-owned property or a public right-of-way.
 2. Obtain approval from administration for any such encroachment.
 3. Provide waste receptacles.

4. Remove garbage and litter of the cafe; and all property within 100 feet within one hour of close of business.
 5. Continually clean tables of plates, cutlery, glasses and food products.
 6. Provide liability insurance naming the City of St. Clair as an additional insured as approved by City Council where the proposed Social District encroaches on publicly-owned property.
 7. Agree to indemnify, hold harmless and to defend, at the sole expense of the operator/owner, any action brought against the City based upon the creation of a Social District on publicly-owned property. The operator/owner shall indemnify and reimburse the City for any judgment for damages, court costs and attorneys' fees that the City may be required to pay as a result of such action. The City, at its sole discretion, may participate in the defense of any such action, but such participation shall not relieve operator/owner of the obligations of this condition. Commencement of construction or operations under this permit shall be deemed to be acceptance by operator/owner of all conditions of this permit.
 8. Abide by any further conditions or requirements imposed by City administration to support public health amidst the COVID-19 pandemic or to encourage the economic and social health of the City.
- B. Approvals: City administration shall not unreasonably withhold approval for outdoor or sidewalk cafes under this subsection. A determination on approval shall be made following a review by the Superintendent, the Building Official, and the Chief of Police.
- C. Appeals. Appeals from decisions made in the administration of this emergency ordinance shall be heard and decided by City Council.

SECTION 7. SEVERABILITY.

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 8. RATIFICATION.

All other provisions of the code of Ordinances of the City of St. Clair, Michigan are hereby expressly ratified and affirmed.

SECTION 9. PUBLICATION.

This Ordinance shall be published in accordance with the terms, provisions, and requirements of the City Charter of the city of St. Clair, Michigan, and in accordance with and to the extent required by the statutes of the State of Michigan.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take immediate effect in accordance with the provisions of Section 5.10 of the City Charter of the City of St. Clair, where it has been enacted to meet a public emergency affecting life, health, property or the public peace; to wit, addressing zoning issues impacting the City's support of local businesses in response to the COVID-19 pandemic.

ORDINANCE DECLARED ADOPTED.

William Cedar, Jr., Mayor
City of St. Clair, Michigan

CERTIFICATION

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of St. Clair, County of St. Clair, State of Michigan, at a special meeting of the City Council held on the 15th day of June, 2020, and public notice of said meeting was given pursuant to and in accordance with the requirements of Act No. 267 of the Public Acts of 1976, as amended, being the Open Meetings Act, and the minutes of said meeting have been or will be made available as required by said Act.

Members Present: Mayor Cedar, Members Ellery, Kindsvater, Kuffa, LaPorte, McCartney, Watt
Members Absent: None

It was moved by Member Kindsvater and supported by Member Ellery to introduce and adopt the Ordinance.

Members voting yes: McCartney, Watt, Ellery, Kindsvater, Kuffa, Cedar
Members voting no: None
Member LaPorte abstained

The Ordinance was declared adopted by the Mayor and has been recorded in the Ordinance Book of the City of St. Clair.

Annette Sturdy, City Clerk
City of St. Clair, Michigan

INTRODUCED: June 15, 2020
ADOPTED: June 15, 2020
PUBLISHED: June 19, 2020
EFFECTIVE: June 15, 2020