



## Legislation Text

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**File #:** 17-466, **Version:** 2

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Pass the ordinance amending Section 11 (Liquor License and Permit Classifications), of Chapter 3 (Liquor and Tobacco Control), of Title 3 (Business and License Regulations), of the Naperville Municipal Code amending the outdoor seating permit to allow for liquor sales and service on the public way.

**DEPARTMENT:** Mayor's Office

**SUBMITTED BY:** Steve Chirico, Mayor/Liquor Commissioner, Kavita Athanikar, City Prosecutor

#### **BOARD/COMMISSION REVIEW:**

The Naperville Liquor Commission voted unanimously to recommend to City Council the proposed revision of the outdoor seating permit to allow for liquor consumption on the public way. On June 6, 2017, the City Council conducted the first reading of an ordinance allowing for liquor sales and service on the public way.

#### **BACKGROUND:**

##### **Liquor Commission Recommendation**

On March 9, 2017, the Liquor Commission discussed the liquor service for outdoor seating on the public property for the downtown district only. The Commission asked staff to prepare a draft ordinance including the following: timeframe/seasonality of use, food service, hours, enclosure options, security cameras, heaters, and amplified music.

At the April 6, 2017 Liquor Commission meeting, the Restaurant Association encouraged the Commission to establish an enclosure guideline for those licensed, outdoor seating areas within the Downtown. Additionally, the Restaurant Association suggested service should cease by 10:00 p.m. and perimeters should be set for sound amplification.

On May 4, 2017, the Liquor Commission decided amplified sound from the licensed premises may not be audible at 50 feet. The Commission added a one year sunset provision. The Commission unanimously approved the ordinance.

##### **City Council Discussion**

At the June 6, 2017 City Council meeting, the Council inquired as to oversight of the outdoor seating area including high top tables, allowances for smoking, and the requirement of BASSET served employees stationed within the outdoor area. Council was informed that all furniture and enclosures will be submitted to staff as part of a site plan that must be approved by Code and the Mayor's Office. Additionally, due to the proximity of the outdoor area to the licensed establishment (the building) for most proposed locations, smoking will not be allowed and BASSET trained employees can only deliver liquor to patrons. Council asked about a shared outdoor seating permit; staff stated that this is not an option as each permit must attach to a specific liquor licensee and multiple licensees cannot

share one permit. Council discussed if a cap was needed to maintain control over the issuance of permits. The City Council also requested a list of qualifying locations which is attached.

### **DISCUSSION:**

The Illinois Liquor Control Act (235 ILCS 5/6-15) restricts the sale or delivery of alcoholic liquor on municipal property unless: a) City Council provides for the sale by way of ordinance, or b) the municipality transfers control (by way of lease or sale) of the public property to the licensee.

### **Amend the Current Outdoor Seating Permit (including the Sidewalk Permit)**

The City's current Liquor Code permits, subject to restrictions, alcohol service on privately owned property by way of an outdoor seating permit. An amendment to the permit allows for liquor service on public property as well. The requirements for this permit are provided below:

- Permits begin on April 1<sup>st</sup> and expire on March 31<sup>st</sup>
- Permit holder shall complete an application and inspection of the property shall be performed by the City including a review of site plans, usage of heaters and amplification of music, security cameras, etc.
  - Amplified sound shall not be audible at 50 feet of originating property's lot lines and its purpose is only to create ambiance for the licensed premises.
- Certificate of insurance naming the City as an additional insured is required.
- The public way must be kept free from refuse and no food preparation is permitted on the public way. A clear path of at least five contiguous feet shall be provided for passage of pedestrians. Outdoor seating area shall be clearly designated with a permanent or semi-permanent barrier as approved by the City.
- Patrons shall not leave the outdoor seating area with liquor; all liquor shall only be served and transferred for patrons by a BASSET trained server.
- The service and consumption of alcoholic liquor on the public way shall be incidental to the service and consumption of meals. Liquor service on public property shall cease by 10:00 p.m.
- Except within a permitted outdoor seating area or otherwise licensed, it shall be unlawful for any person to consume any alcoholic liquor upon any public property. Outdoor seating permit on public way in the Downtown with liquor service: \$500.00, outdoor seating permit on private property with liquor service: \$300.00, and outdoor seating permit on public way without liquor service: \$100.00.
- One year sunset provision on this ordinance set to expire on March 31, 2018.

The Naperville Municipal Code already provides for outdoor seating on public property without liquor service. This permit authorizes the placement of tables, chairs, umbrellas, and other structures on the City's right of way in the Central Business District to serve food and/or nonalcoholic drink. The recommended ordinance accounts for the sidewalk permit and includes the existing restrictions within the proposed text amendment.

### **FISCAL IMPACT:**

Associated permit fees.