

ORDINANCE NO. 1667

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING LODI MUNICIPAL CODE CHAPTER 12.04 – ENCROACHMENTS BY ADDING SECTIONS 12.04.10 (F) “DEFINITIONS”, AND 12.04.425 “SIDEWALK SEATING AREA”

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. Lodi Municipal Code Chapter 12.04 – Encroachments is hereby amended by adding Sections 12.04.10 (F) “Definitions” and 12.04.425 “Sidewalk Seating Area” to read as follows:

12.04.010 (F) Definitions - Sidewalk Seating Area

F. “Sidewalk Seating Area” means the use of a public sidewalk for the placement of tables, chairs, benches and related items.

12.04.425 – Sidewalk Seating Area

Establishment of a sidewalk seating area shall require the review and approval of an Encroachment Permit by the Public Works Director and be consistent with the following standards:

- A. Location: Sidewalk seating within the public right-of-way is only permitted within the Downtown as it is delineated in the “Downtown Development Standards and Guidelines” as approved by the City Council.
- B. Physical Requirements:
 - 1. A minimum four-foot unobstructed sidewalk for pedestrians shall be maintained at all times from a table, chair, bench, display, planter or any other appurtenance used as part of a sidewalk seating area.
 - 2. No sidewalk seating area shall block access to or from a building.
 - 3. All sidewalk furniture shall be removable and shall be removed, along with seats, tables, and other appurtenance if the business is closed for more than 48 hours unless otherwise approved by the Public Works Director.
 - 4. Any umbrella or similar feature shall be secured safely to a table, chair or ground.
 - 5. The design and appearance of all proposed improvements or furniture shall present a coordinated theme and shall be compatible with the appearance of the principal building and furniture within the establishment.
 - 6. No signs shall be permitted in connection with a sidewalk seating area except as may be required by the City for reasons of public health or safety.

C. Maintenance:

1. The permittee shall maintain the sidewalk area and the adjoining street, curb and gutter in a neat, clean and orderly condition at all times. This shall include all tables, chairs, benches, planters or other appurtenances placed in the public right-of-way. Trash receptacles to serve the seating area shall be provided as required by the Public Works Director.

D. Special Standards for Sidewalk Dining Areas with Alcoholic Beverage Service.

1. Alcoholic beverages may only be served in sidewalk seating areas which are established in conjunction with a restaurant. For purposes of this section, a restaurant is a business operating within an enclosed building, which has as its primary purpose, the serving of meals prepared on the premises which devotes the majority of its floor space to food preparation and dining, and where any bar or liquor service area is clearly subordinate in both areas of the premises and share of gross receipts to the primary dining function of the restaurant.
2. The sidewalk seating area shall be physically separated from the rest of the sidewalk by a barrier as required by the State of California Department of Alcoholic Beverage Control. The barrier shall be compatible with the appearance and design of the building and the rest of the sidewalk seating area.
3. No bar shall be allowed in the sidewalk seating area.
4. Empty beverage containers shall be removed from the sidewalk seating area as soon as possible.
5. The appropriate City of Lodi Use Permit and Alcoholic Beverage Control License shall be obtained prior to the operation of a sidewalk seating area serving alcoholic beverages and shall be maintained continuously as long as alcoholic beverages are served in the sidewalk seating area. Loss of such permit or license shall automatically constitute termination of the City approval to serve alcoholic beverages in the sidewalk seating area.

E. Indemnification/Insurance: The permittee shall defend, indemnify, and hold harmless the City and its officers and employees from and against all claims, losses, damage, injury, and liability for damages arising from the permittee's use of the public right-of-way. The permittee shall provide to the City, in a form and in amounts acceptable to the Risk Manager, certificates of insurance, naming the City as an additional insured covering the area subject to the permit.

F. Suspension of Permit: The Public Works Director shall have the right to suspend or prohibit the operation of a sidewalk seating area or require removal at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems or conflicts may arise from, but are not limited to, scheduled festivals, parades, marches, and similar special events; repairs to the street, sidewalk, or other public facility; or from demonstrations or emergencies occurring in the area. To the extent possible, the City will give prior written notice of any time period during which the operation of the sidewalk seating area must be suspended.

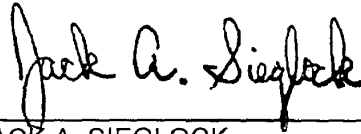
Section 2. - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty-of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 16th day of September, 1998



JACK A. SIEGLOCK
Mayor

Attest:



ALICE M. REIMCHE
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1667 was introduced at a regular meeting of the City Council of the City of Lodi held September 2, 1998 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held September 16, 1998, by the following vote:

Ayes:	Council Members – Johnson, Land, Mann, Pennino and Sieglock (Mayor)
Noes:	Council Members – None
Absent:	Council Members – None
Abstain:	Council Members – None

I further certify that Ordinance No. 1667 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


ALICE M. REIMCHE
City Clerk

Approved as to Form:


RANDALL A. HAYS
City Attorney