

**BIRMINGHAM CITY COMMISSION
& PLANNING BOARD
JOINT MEETING AGENDA
JUNE 20, 2022
BALDWIN PUBLIC LIBRARY – ROTARY ROOM
300 W. Merrill St.
7:30 P.M.**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

III. PUBLIC COMMENT

The City of Birmingham welcomes public comment limited at the Mayor's discretion to allow for an efficient meeting. The Commission will not participate in a question and answer session and will take no action on any item not appearing on the posted agenda. The public can also speak to agenda items as they occur when the presiding officer opens the floor to the public. When recognized by the presiding officer, state your name for the record, and direct all comments or questions to the presiding officer.

IV. DISCUSSION TOPICS

- A. Outdoor Dining
- B. Food Trucks
- C. Social Districts

V. COMMUNICATIONS

VI. ADJOURN

Should you wish to participate in this meeting, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> Meeting ID: 655 079 760

You may also present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



MEMORANDUM

Planning Division

DATE: June 20, 2022

TO: Thomas M. Markus, City Manager

FROM: Nicholas Dupuis, Planning Director

SUBJECT: Joint Meeting Discussion

1. Outdoor Dining

As a result of the temporary COVID-19 outdoor dining expansion resolution and continuing issues with outdoor dining patios encroaching onto required clear paths, adding unapproved equipment/fixtures, heaters, and structures, the City Commission directed a review of outdoor dining requirements to evaluate potential changes that may clarify and/or enhance the outdoor dining environment within the City. Please see the attached Planning Division memorandum dated May 11, 2022 for a complete review history.

At this time, the Planning Board has drafted a new set of ordinances that are consistent, enforceable, and offer more clarity to outdoor dining establishments. While the Planning Board is working through a few final design considerations, the Board is interested on the City Commission's thoughts regarding a the potential impacts of the new ordinance on existing establishments before recommendations are forwarded to the City Commission.

On April 25, 2022, the City Commission moved to discuss outdoor dining policy as it relates to platforms and parking spaces, as well as the interaction of outdoor dining platforms and valet operations at a future meeting. Ultimately, it was suggested by City Staff that the topic be discussed at a joint meeting of the Planning Board and the City Commission.

Discussion:

Does the Commission wish to engage in any additional public input on the outdoor dining ordinance?

Does the Commission wish to consider a cap on the number of outdoor dining platforms permitted in the public rights-of-way by block, by area, or overall?

Should the Planning Board require additional documents and plans regarding the integration of valet operations and outdoor dining?

2. Food Trucks

On March 14, 2022, the City Commission held a workshop to consider the use of food trucks and the types of issues the Planning Board should be looking at when drafting new regulations. At this time, the Planning Board is scheduled to begin study sessions on the subject of food trucks and would like to refresh the discussion with the Commission to determine the desired direction of the City Commission.

Discussion:

Does the City Commission wish to limit the permitted locations of food trucks?

Are there any other concerns that the City Commission would like to address that were not discussed at the workshop?

3. Social Districts

On March 14, 2022, the City Commission held a workshop to consider social districts in the City of Birmingham. Similar to the discussion above, the Planning Board will soon embark on study sessions on the matter and is seeking discussion regarding the major concerns and goals that the City Commission envisions for a potential social district in Birmingham. Other considerations include street closures that do not necessitate social district appeals. In these cases, alcohol could be constrained to the dining establishment and outdoor dining. The streets could be closed at different days/times throughout the year.

Discussion:

What types of public input does the City Commission envision for social districts?

Should a social district be designed on a temporary, trial basis?

Does the City Commission wish to limit the boundaries of an initial social district and increase them when/if demand grows?

Is there interest in temporarily closing streets to traffic without creating a social district?



MEMORANDUM

Planning Division

DATE: May 11, 2022

TO: Planning Board Members

FROM: Nicholas Dupuis, Planning Director

SUBJECT: Outdoor Dining Ordinance – Public Hearing

On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21st, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23rd, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

Study Session #1 Summary

On July 14th, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

Study Session #2 Summary

On August 11th, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

Study Session #3 Summary

On September 9th, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.

Study Session #4 Summary

On September 23rd, the Planning Board discussed the MLCC rules for outdoor dining patios, the concept of a windbreak and whether or not they should be permitted, and also explored the different zoning districts in which outdoor dining is permitted. These topics led to more conversation about how overhead weather protection will interact with said overhead coverings, and what typed of overhead protection the Planning Board should permit. The Planning Board expressed an interest in taking a deeper dive into overhead weather protection and reviewing different options.

Study Session #5 Summary

On October 27th, 2021, the Planning Board focused much their conversation on overhead weather protection and which types may be considered within the new ordinance language, and what different issues might arise with the different styles. In addition, the Birmingham Fire Chief Paul Wells gave a brief overview of the fire code as it relates to overhead weather protection, and offered some guidance to the Planning Board regarding fire suppression and other aspects of outdoor dining. In addition to overhead weather protection, the Planning Board provided some clear direction on the subjects of windbreaks, year-round dining, and the role of outdoor dining decks.

Study Session #6 Summary

On December 8th, 2021, the Planning Board reviewed comments regarding outdoor dining from the Birmingham Shopping District (BSD). In addition to the BSD comments, the Planning Board also reviewed some updated comments from the Fire Department based on their additional research into the Fire Code. To round out the meeting, the Planning Board outlined several items that they feel need further discussion/decision moving forward:

- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
- Whether there should be on-season and off-season dates for outdoor dining, and what should happen to furniture and other equipment on public property if there are different 'seasons';
- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

Study Session #7 Summary

On January 12, 2022, the Planning Board discussed the several questions posed in the previous study session and come to a conclusion on most of them. In general, the Planning Board decided on a short extension to the regular outdoor dining season, treating all outdoor dining establishments alike, enhanced material and appearance standards, and allowing expansion of patios with neighbor consent. During this study session, the Planning Board also reviewed seating data for the different outdoor dining establishments, and was provided a map of all outdoor dining in the City, which is heavily concentrated downtown. Ultimately, the Planning Board asked Staff to take their comments and work them into a new revised set of ordinance amendments to review on February 9, 2022.

Study Session #8 Summary

On February 9, 2022, the Planning Board worked on fine-tuning a set of ordinance amendments to try to finalize a few of their discussion points, and make sure the intent of the original direction of the City Commission was met. The Planning Board made several revision requests that were aimed at clarifying different aspects of the proposed ordinance, but especially relating to the barriers and enclosure regulations. In addition, the Planning Board made some requests to review various site plans from approved outdoor dining patios in the City to help guide the final discussions on the placement of patios, and other design limitations.

Study Session #9

On March 9, 2022, the Planning Board took another long look at the proposed ordinance language and offered several minor changes to the text in attempts to offer further clarity and consistency throughout the ordinance. In addition, the Planning Board discussed the remaining issues that were in need of direction. In short, the Planning Board decided that they did not wish to restrict outdoor dining patios to one contiguous patio, but did express interest in restricting platform dining to the street with no impingement on the furniture zone. Additionally, the majority of the Planning Board did not feel as though fixed awnings were appropriate over outdoor dining platforms, and sought additional language to restrict overhead weather protection to umbrellas on platforms. Finally, the Planning Board did not feel as though the numbers of platforms per block should be restricted.

Public Hearing

On March 9, 2022, the Planning Board moved to set a public hearing date of April 13, 2022 for a final review and recommendation to be forwarded to the City Commission. Due to a noticing issue, the Planning Board reset the public hearing to May 11, 2022. The Planning Division has updated the proposed ordinance language based on the Planning Board comments, but has also re-circulated the language to each department, as well as the City Attorney to ensure that the language addressed their concerns, and will provide consistent and enforceable regulation. Please see the final draft of the proposed ordinance language below.

Sample Motion Language:

Motion to recommend APPROVAL to the City Commission the amendments to Article 4, Section 4.44, Article 3, Section 3.03, Article 3, Section 3.16 and Article 9, Section 9.02 of the Zoning Ordinance to revise the outdoor dining standards and provide consistent and enforceable regulations.

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.44, OUTDOOR DINING STANDARDS, TO SUPPORT PUBLIC HEALTH, ACTIVATE PUBLIC SPACE, FOSTER ECONOMIC DEVELOPMENT, SAFEGUARD THE USE OF PUBLIC PROPERTY, AND PROVIDE FLEXIBILITY FOR CURRENT TRENDS AND FUTURE DEMANDS FOR OUTDOOR DINING.

Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:



The following outdoor dining standards apply:

A. ~~Outdoor Dining:~~ Outdoor dining is permitted immediately next to the [principal use](#), subject to Site Plan Review, and the following conditions:

- ~~1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.~~
- ~~2. All outdoor activity must cease at the close of business or as noted in subsection 3 below.~~
- ~~3. When an outdoor dining area is immediately adjacent to any single family or multiple family residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.~~
- ~~4. Outdoor dining may be permitted on the sidewalk throughout the year with a valid Outdoor Dining License.~~
- ~~5. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.~~
- ~~6. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.~~
- ~~7. For outdoor dining located in the public right of way:~~

- ~~a. All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.~~
- ~~b. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.~~
- ~~c. Outdoor dining is permitted to extend in the right-of-way in front of neighboring properties, with the written permission of the property owner(s) and with Planning Board approval, if such property is vacant or the first floor storefront(s) is/are vacant. Outdoor dining areas may extend up to 50% of the width of the neighboring lot(s) storefront(s), or up to 50% of the lot(s) frontage, if such lot is vacant.~~
- ~~d. City Commission approval is also required for outdoor dining extensions onto neighboring property if the establishment making such a request holds a bistro license.~~
- ~~e. An elevated, ADA compliant platform may be erected on the street in front of an eating establishment to create an outdoor dining area only if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.~~
- ~~f. No such facility shall erect or install permanent fixtures in the public right-of-way.~~

~~8. Outdoor dining is permitted in a B1 District at a rate of 4 seats for every 12 linear feet of store frontage, with no more than 12 seats total per [building](#); no elevated enclosed platforms on the street are permitted in a B1 District.~~

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide harmonious outdoor dining design in order to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Board, and the conditions below. For the purposes of this section, outdoor dining facility shall mean patios and/or platforms.
 - 1. All outdoor activity including cleaning, maintenance and closing procedures must cease at the close of business or as noted in subsection 2.

2. When an outdoor dining facility is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
3. Reviews of outdoor dining facilities shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
4. Outdoor dining facilities may be permitted to extend in front of neighboring properties or tenant spaces with the written permission of the property owners(s) affected and with Planning Board approval. Written permission must be renewed annually and submitted with the Outdoor Dining Permit application(s) for each outdoor dining facility affected.
5. Outdoor dining facilities may be permitted on public property only with a valid Outdoor Dining License, provided that the following conditions are met:
 - i. Approval of an Outdoor Dining License shall be contingent upon compliance with all city codes, including any conditions required by the City or the Planning Board in conjunction with Site Plan approval.
 - ii. Operators of outdoor dining facilities shall be responsible for snow and ice removal, and shall remove snow and ice in a manner consistent with the regulations of the Department of Public Services.
 - iii. All outdoor dining facility elements such as railings, planters, tables, chairs, heaters, umbrellas, and the like must be stored indoors each night between January 1 and March 31 to allow for complete snow and ice removal.
 - iv. Outdoor dining patios located in an alley or passage that contains vehicular traffic are only permitted April 1 through December 31.
 - v. An ADA compliant platform may be erected in the on-street parking space(s) immediately in front of an eating establishment to create an outdoor dining facility from April 1 through December 31, subject to an additional review by the Advisory Parking Committee.
6. All outdoor facilities shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.

C. Outdoor Dining – Design: All outdoor dining facilities are subject to the following design standards:

1. All tables and chairs provided in the outdoor dining facility shall be constructed primarily of metal, wood, or a material of comparable quality as determined and approved by the Planning Board.

2. Outdoor dining facilities shall provide and service refuse containers within the outdoor dining facility and maintain the area in good order. Public trash receptacles are not permitted to be utilized by outdoor dining facilities.
3. Outdoor dining facilities shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
4. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 ft.
5. No outdoor dining facility is permitted within the furnishing zone of a streetscape. Outdoor dining platforms within the adjacent street or parking space(s) shall be designed to be flush with the curb, and may not extend beyond the curb into the furnishing zone except to accommodate accessibility requirements.
6. No such establishment shall erect or install permanent fixtures in the public right-of-way.
7. Table umbrellas or other overhead weather protection shall not
 - i. Impede sight lines into a retail establishment;
 - ii. Obstruct pedestrian flow within the outdoor dining facility;
 - iii. Obstruct pedestrian or vehicular traffic flow outside the outdoor dining facility or extend beyond the limits of the facility; or
 - iv. Contain signage or advertising.
8. Fixed or freestanding awnings are not permitted within outdoor dining platforms.
9. Barriers defining outdoor dining facilities shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers may not exceed 42 inches in height except as permitted in subsection 10.
10. Windbreaks are permitted within outdoor dining facilities and shall be affixed to, or integrally designed within a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches as measured from grade. Windbreaks must be constructed of a clear, rigid and durable material. Eisenglass and other vinyl-based materials are prohibited.
11. Portable heating elements must be maintained and kept in an orderly fashion and in accordance with all applicable fire codes. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
12. All service functions and ancillary elements including, but not limited to, trash receptacles, service stations or host/hostess stands must be located within the approved outdoor dining facility, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

ORDAINED this _____ day of _____, 2022 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, SECTION 3.04 (C), SPECIFIC STANDARDS, TO REDUCE REDUNANCY AND PROVIDE CONSISTENT OUTDOOR DINING REGULATIONS.

Article 3, Section 3.04 – Specific Standards (Downtown Overlay District)

C. Building Use: Buildings shall accommodate the following range of uses for the various designations on the Regulating Plan of the Downtown Birmingham Overlay District:

1. ...
2. ...
3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...

10. Bistros are permitted with a valid Special Land Use Permit with the following conditions:

- a. No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
- b. Alcohol is served only to seated patrons, except those standing in a defined bar area;
- c. No dance area is provided;
- d. Only low key entertainment is permitted;
- e. Bistros must have tables located in the storefront space lining any street, or pedestrian passage. **If the storefront area is not feasible for outdoor dining, alternative outdoor dining facility placement may be considered by the Planning Board;**
- f. **All outdoor dining facilities are subject to the requirements located in Article 4, Section 4.44 of this Ordinance;**
- g. A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1 foot and 8 feet in height; **and**

- h. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro.; and
- ~~i. Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, defined platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.~~
- ~~j. Enclosures facilitating year round dining outdoors are not permitted.~~
- ~~k. Railings, planters or similar barriers defining outdoor dining platforms may not exceed 42" in height.~~
- ~~l. Outdoor rooftop dining is permitted with the conditions that surrounding properties are not impacted in a negative manner and adequate street level dining is provided as determined by the Planning Board and City Commission. Rooftop dining seats will count towards the total number of permissible outdoor dining seats.~~

ORDAINED this _____ day of _____, 2022 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, SECTION 3.16, SPECIFIC STANDARDS, TO REDUCE REDUNANCY AND PROVIDE CONSISTENT OUTDOOR DINING REGULATIONS, AND TO PERMIT OUTDOOR DINING IN ACTIVE VIAS.

Article 3, Section 3.16 – Specific Standards (Via Activation Overlay District

- A. Permitted and Prohibited Uses: To enhance the amenity and character of vias, **and** to enhance visual interest and encourage surveillance of urban spaces, active uses should be provided at the ground floor level along the majority of the edges of buildings located adjacent to vias. While buildings should accommodate these uses, care must be taken to avoid conflict with pedestrian movement in the via. To specifically encourage the activation of vias, the following uses are permitted within Active, Connecting, and Destination Vias:

1. Retail sales and display;
2. Public plazas and informal gathering spaces;
- 3. Outdoor Dining;**
4. Art display; and
5. Community Gardens.

In addition, the following ~~uses are~~ **use is** also permitted within Connecting and Destination Vias:

- ~~1. Outdoor dining; and~~
2. Special Events.

The following are specifically prohibited in all vias:

1. Automatic food and drink vending machines outdoors;
2. Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services;
3. Unscreened trash receptacles; and
4. Unscreened outdoor storage.

B. ...

C. ...

ORDAINED this _____ day of _____, 2022 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD DEFINITIONS FOR ENCLOSURE, OUTDOOR DINING PATIO, AND PERMANENT FIXTURE.

Article 9, Section 9.02 – Definitions

Enclosure (outdoor dining): A vertical wall, panel, or other material that extends above 60 in. in height which provides extended relief from weather and impedes physical and/or visual access to the outdoor dining space. For the purposes of this definition, enclosure does not include exterior building walls.

~~**Outdoor Café:** An outdoor area accessory to an existing restaurant operation designated for consumption of food prepared within the restaurant and subject to the provisions of this ordinance.~~

Outdoor Dining Patio: A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

Outdoor Dining Platform: A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment that is located in a parking space and/or street and subject to the provisions of this ordinance.

Permanent Fixture (outdoor dining): Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.

ORDAINED this _____ day of _____, 2022 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

**BIRMINGHAM CITY COMMISSION
SPECIAL MEETING AGENDA
WORKSHOP
MONDAY, MARCH 14, 2022
6:30 P.M.**

WORKSHOP SESSION

This will be considered a workshop session of the City Commission. No formal actions will be taken. The purpose of this workshop is to participate in a discussion regarding food trucks and social districts.

I. CALL TO ORDER

Therese Longe, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

III. PRESENTATION & DISCUSSION

A. Introduction – Tom Markus, City Manager

B. Staff Update

C. City Commission Questions, Discussion and Comment

1. Should the City allow an additional category of vendor to allow mobile food trucks similar to frozen confection vendors?
2. Should the City allow food trucks at fixed locations?
3. Should the City allow other vendors at fixed locations (sales of art, clothing, jewelry etc.)?
4. Should the City establish a Social District?
5. If so, where? On a seasonal basis only?

IV. PUBLIC COMMENT

V. ADJOURN

This meeting is open to the public and the public is welcome to attend.

Should you wish to participate in this meeting, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> Meeting ID: 655 079 760

You may also present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

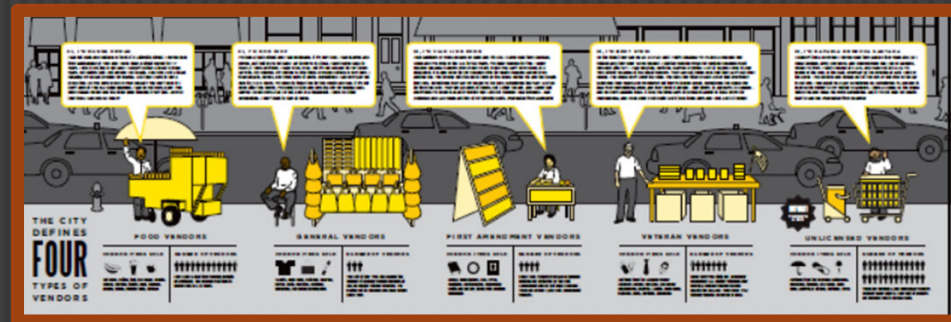
NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance. Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



FOOD TRUCKS

City Commission Workshop

March 14, 2022



EXISTING REGULATIONS

- Chapter 26, Businesses, Article IV, Vendor, Peddlers, and Solicitors
- Permitted:
 - Special event vendors (stationary)
 - School vendors (stationary location on City property during school or other athletic events at City parks)
 - Frozen confection vendors (max. 3/year)
 - Peddlers (offering goods or services for sale, travelling by foot or vehicle)
 - Solicitors (requesting money, credit, property etc. for enumerated causes)
- Limited hours dependent on Daylight Savings time
- No vendors, peddlers or solicitors within 50' of any school, church, synagogue, courthouse, police station or other public location unless specifically authorized
- No vendors, peddlers and/or solicitors may occupy a stationary location on public property for more than 10 minutes
- Stationary vendors, peddlers or solicitors are permitted only during approved special events or athletic events
- Existing regulations do not allow for an informal artisan market in an alley for instance, or a hot dog vendor or food truck at specific street corners every day.



PREVIOUS STUDIES

- In 2011, the City Commission considered permitting the operation of food trucks outside of approved special events
- Considered allowing different types of food trucks and other vendors to occupy fixed locations such as:
 - In one or more City parks
 - In Downtown alleys and passages
 - Other public spaces where activation was needed
- No changes were adopted



STATE LAWS/LICENSING

- Michigan Food Law of 2000
- Michigan Modified 2009 Food Code



- **Mobile Food Unit:** A food establishment operating from a vehicle, including a watercraft, that returns to a mobile food establishment commissary for servicing and maintenance at least once every 24 hours.
- **Mobile Food Establishment Commissary:** An operation that is capable of servicing a mobile food establishment.
- **Temporary Food Establishment:** A food establishment that operates at a fixed location for a temporary period not to exceed 14 consecutive days.
- **Special Transitory Food Unit:** A temporary food establishment that is licensed to operate throughout the state without the 14-day limits or a mobile food establishment that is not required to return to a commissary.

WHY CONSIDER FOOD TRUCKS?

- Cost-friendly alternative to Brick-and-Mortar
- Mobility allows for expanded customer base
- Public revenues from sales and payroll taxes
- Attract foot traffic and encourage social interaction
- Activate underutilized spaces
- Contribute to 'sense of place'
- Help people stay connected during challenging times



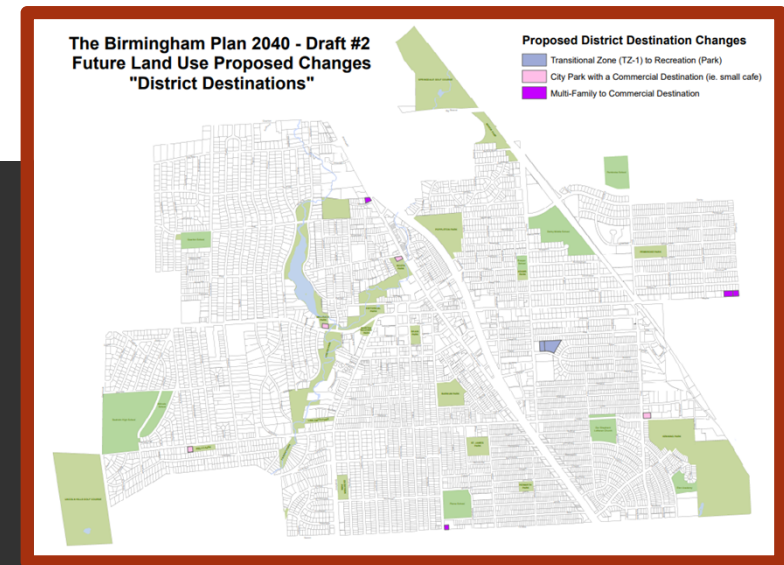
CHALLENGES

- Balancing competing interests
- Potential for unfair advantage in the marketplace
- Operations in non-commercial zoned locations
- Occupy parking which is sometimes in short supply
- Choosing an agency to regulate and permit
- Setting restrictions on mobile food operations
- Waste management



POLICY CONSIDERATIONS

1. Location
2. Operations
3. Health & Safety
4. Administration & Enforcement



SOCIAL DISTRICTS



On July 1, 2020, Bill 5781 was signed into law establishing Social Districts through **December 31, 2024**



EXISTING STATE REGULATIONS

- A Social District must include a commons area within that is shared by and is contiguous to the premises of at least two qualified alcohol licensees
- A Social District is created by a local government's governing body by resolution, and must include:
 - a management and maintenance plan
 - hours of operation
 - a map and signage plan that defines the boundaries of the Social District
 - boundaries of the commons area that identify at least two contiguous qualified licensees
- Resolutions with all attachments must be filed with the MLCC and obtain Social District Permit



EXISTING STATE REGULATIONS

- Once approved for a Social District Permit, a qualified licensee may sell alcohol in their privately licensed establishment only, in approved containers
- Approved containers must not contain glass, be 16 oz. or less in size, and contain both the licensee's trade name or logo and a logo unique to the specific commons area
- Patrons may consume alcohol within the private establishment or within the commons area outside of the private establishment
- Local police and the MLCC are responsible for enforcement within Social Districts



PREVIOUS STUDIES

- June 8, 2020, City was poised to consider establishing a Social District in Shain Park
- Draft resolution prepared including area generally bounded by Henrietta, Martin, Bates and Townsend
- Bill was still going through approval process, no action taken

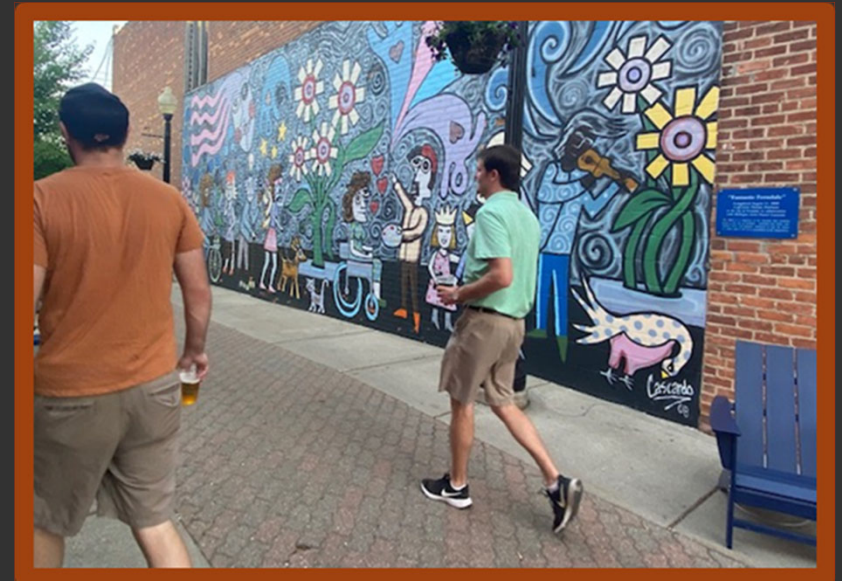
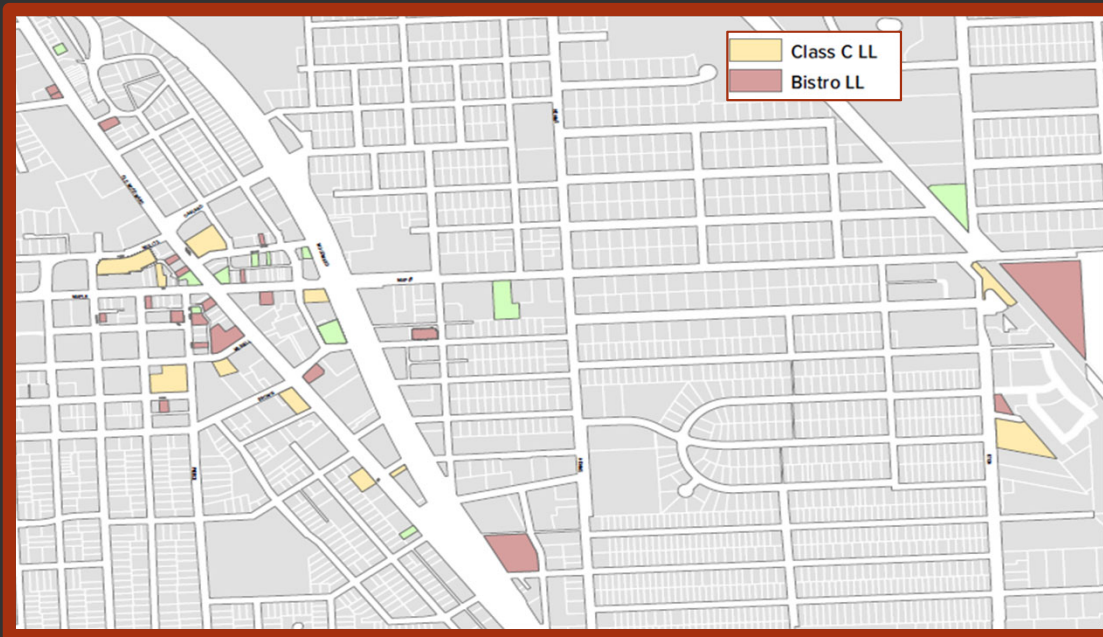


OAKLAND COUNTY COMMUNITIES

- Clarkston
- Clawson
- City of Farmington
- Ferndale
- Holly
- Lake Orion
- Oak Park
- Oxford
- Pontiac
- Royal Oak
- Wixom



OPPORTUNITIES



QUESTIONS

- Should the City allow an additional category of vendor to allow mobile food trucks similar to frozen confection vendors?
- Should the City allow food trucks at fixed locations?
- Should the City allow other vendors at fixed locations (sales of art, clothing, jewelry etc.)?
- Should the City establish a Social District?
- If so, where? On a seasonal basis only?