

**TOWN OF WALLINGFORD, CONNECTICUT
ORDINANCE COMMITTEE
Robert F. Parisi Council Chambers
45 South Main Street, Wallingford
Tuesday, April 2, 2024
6:30 pm**

RECORD OF VOTES AND MINUTES

The Ordinance Committee Meeting on Tuesday, April 2, 2024, was called to order at 6:30 p.m. There was a moment of silence and the Pledge of Allegiance was said. Councilors in attendance were Samuel Carmody, Craig Fishbein, Thomas Laffin; Council Chair Joseph Marrone, Christopher Regan; Jesse Reynolds, Christina Tatta, and Autumn Allinson Chairperson. Also in attendance were Mayor Vincent Cervoni and Janis Small, Corporation Counsel.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Minutes of September 19, 2023, Ordinance Committee meeting.**

MOTION WAS MADE TO APPROVE THE SEPTEMBER 19, 2023 MINUTES AS PRESENTED.

**MADE BY: LAFFIN
SECONDED BY: MARRONE
VOTE: UNANIMOUS
ABSTAIN: FISHBEIN
MOTION: PASSED**

5. **Discussion and Possible Action Regarding Updates to the Seasonal Outdoor Dining Ordinance, specifically regarding decorative/safety barriers**

Councilor Tatta reported that she has received complaints about some of the decorative barriers used by downtown restaurants last year. She reported that she has spoken with Planning & Zoning and the WCI. She suggested either adding to the ordinance what we want the barriers to be or just leaving it alone. She asked if the Council is interested in regulating this. She shared documents and photos of what other towns and cities have done.

Councilor Fishbein quoted from the ordinance, section 62-14.B, "The outdoor sidewalk dining area must be separated from the remainder of the public sidewalk by a fence, railing, or other divider made of sturdy material." He stated that he understood the intent to be similar to the white stucco fence used by Gaetano's. He agreed that it needs to look good. He is concerned with enforcement. He noted that he doesn't see how Archie Moore's can comply with CT Statute 8-1cc. He added that restaurants are supposed to apply and show insurance. He also noted that he understood liquor laws require two entrances. He agreed that we need to do something to determine what the divider looks like.

Chairperson Allinson reported that she spoke with the Building Department. They are in the process of painting marks on the sidewalk as boundaries that meet the Statute's measurements. The Building

Department is currently accepting applications for permits. She reported that the Building Department will come to Council for assistance if they need it.

Mayor Cervoni reported that he met with the Building Department, Engineering Department, and Public Works and reviewed the ordinance with them. It is the responsibility of the Building Department to screen applications and enforce the ordinance. He noted that historically enforcement is based on complaints. He agreed that Archie Moore's doesn't really have the space required in the ordinance.

Councilor Tatta asked if the Council cares what is used as a barrier as long as it meets the ordinance and if it should be uniform.

Councilor Marrone stated that 'sturdy material' doesn't necessarily mean a fence. Beer kegs are sturdy and not inappropriate. He asked how specific the Council wants to be. It still needs to be taken down at night.

Councilor Reynolds stated that it comes down to aesthetics. Unless we want to come up with what we want and provide it to the restaurants it will be hard to tell what's not acceptable.

Councilor Fishbein noted that the beer kegs are old and dented. He reminded the Council that some didn't want umbrellas that promoted alcohol, but the businesses had fresh, colorful umbrellas. He stated that he doesn't think the beer kegs are appropriate and is in favor of tightening up the language. He suggested changing it to "fence or other solid divider". We want to avoid people being able to pass an alcoholic beverage to someone outside the dining area. He asked if the height of the barrier should be discussed. The restaurants are using town property and it should look nice.

Councilor Laffin stated that he doesn't want to micromanage too much. He thought the stanchions with the ribbons were okay. He would rather have something that can be moved in and out. He noted that some of the samples shared are for use on the road. He added that the city charges the restaurants for the use of the parking spaces. Given the amount of space for our restaurants, he suggested the thinner the barrier the better.

Councilor Carmody stated that he cares about the aesthetics. He has also heard complaints. We should have a standard that beautifies the downtown. He suggested discussing standards.

Councilor Tatta offered the option of eliminating the divider.

Chairperson Allinson stated that the dividers are for the patrons. Patrons may move tables around. She asked how we could write a standard to preclude beer kegs. Do we limit height or alcohol paraphernalia? And what do we tell the Building Department so they can enforce the rule? This can be a slippery slope.

Councilor Regan stated that the kegs are to reinforce the barriers and can also be a decorative element. Do we ban anything connected to alcohol? He suggested establishing a set of guidelines that can be enforced. He asked what the penalty would be and what if the business was willing to pay it and continue the offensive activity.

Chairperson Allinson suggested having a conversation with the restaurants to tell them what the public doesn't like instead of making a regulation.

Councilor Fishbein stated that we can go to the businesses and tell them it doesn't look good but they are within the law. Ultimately we need to make sure they know what they need to do. We can't cite it because it doesn't look good. The penalty should be revocation of the permit to outdoor dining after a

period to correct the problem. Repeated violations lose the permit for the season. The language needs to be clear for the restaurant and the public.

Councilor Marrone stated that it is tough to regulate aesthetic choices or the appearance of a business.

Atty. Small stated that the ordinance needs to be cleaned up to meet the Statute. She suggested adding that they should be required to wash down the sidewalk in the morning and to make sure that they don't go past the green line. She will include what is decided in the ordinance.

Councilor Laffin stated that in New Haven the restaurants have to buy into the program and the city provides the barriers and tables. But this is for using the road. That is an option too. He stated that he doesn't want to judge people's aesthetics. We should just manage safety.

Councilor Tatta stated that she is not a fan of over-regulation but the restaurants are using town land for free. She agreed that they should wash the sidewalk. She suggested that an option is to either charge or take on the expense and provide the partitions to be used.

Councilor Reynolds agreed that we want to have low interference in the day-to-day business, but we need a uniform plan. It would be more effective if we provided a standard kit with the permit process. We can't say kegs are bad but flower pots are good.

Councilor Fishbein stated that he likes uniformity since it is on our land. He has no objection to the town buying and maintaining the structures and the restaurants buying into the program. We say where they go. This is doable this year.

Councilor Tatta asked how we decide what looks good.

Councilor Fishbein stated that he doesn't want to micromanage. He suggested asking Rob Baltramaitis for suggestions.

Chairperson Allinson asked how we would implement this as permits are coming in now.

Atty. Small replied that the change to the ordinance would need a public hearing to pass, but since it is town land, we can give restaurants something to use. The regulations for cleaning can be added now.

Councilor Fishbein suggested separating the issues. He suggested the addition to clean the sidewalks be added to the next agenda. The barrier issue can be handled separately.

Atty. Small suggested asking the restaurants to clean the sidewalks and see if the WCI can help. She asked what else should change in the regulation.

Councilor Fishbein pointed to the second line in 62-12 where it says compliance with this 'article'. He suggested changing that to 'regulation'. At the end of the line of 62-14c about the standard for pedestrian access, it should mirror compliance with ADA. As for the definition of the divider, he suggested either 'divider as is provided by the Town of Wallingford' or 'fence or other sturdy divider'. He added that if we provide the divider there would have to be a buy-in.

Atty. Small stated that the State Statute allows restaurants to have outdoor dining.

Chairperson Allinson noted that purchasing the barriers would be another discussion. She likes the idea of providing standards or options to the restaurants. She doesn't think the Town should be responsible for buying them.

Councilor Marrone asked if there is a need for a government standard on barriers.

Chairperson Allinson stated that a conversation can solve a lot of this. She agreed to add the wording for cleanliness. In 62-14E 'litter, debris and residue emanating from outdoor sidewalk dining area must be collected and cleaned up by applicant at all times' or 'removed by applicant daily'. Or state that the litter has to be cleaned up at all times but the residue once a day.

Councilor Fishbein suggested replacing the word 'area' with 'activity'. Regarding the divider issue, we need enforceable language and guidance.

Chairperson Allinson asked for a motion to gauge the interest in this topic.

MOTION WAS MADE TO CHANGE THE WORDING IN 62-14B TO 'THE OUTDOOR DINING AREA MUST BE SEPARATED FROM THE REMAINDER OF THE PUBLIC SIDEWALK BY A FENCE OR OTHER SOLID STRUCTURE' OR 'BY A PVC OR WOODEN FENCE'

MADE BY: FISHBEIN

Chairperson Allinson asked if we could just say 'by an approved structure'. The building department responds to complaints.

Atty. Small added that we would need standards to go with it.

Councilor Carmody stated that we need to explore options that we think are suitable for the Town Center.

Councilor Tatta stated that she liked having someone talk to the businesses in question. There will always be something that someone doesn't like.

Councilor Marrone asked if anyone thinks things are fine the way it is.

Chairperson Allinson stated that we can revisit the regulation after speaking with the businesses.

Councilor Tatta stated that if beer kegs are an issue, we can put something about alcohol paraphernalia in the standards. She likes the idea of talking to the businesses first.

Councilor Fishbein referred to the umbrella issue. The umbrellas are provided by vendors and are bright and colorful in downtown. If we ban them, the restaurants would have to provide them and they might not be as nice. The beer kegs are metal and dented and don't look nice.

Councilor Regan agreed with cleaning up the wording in the ordinance but also raising awareness. We can do a soft call to restaurants and bring it up to vote which opens it up for public comment. If they don't clean up we can regulate it next season.

Councilor Fishbein suggested having applications to the Building Department come to the Council consent agenda. This will provide another set of eyes.

Atty. Small referred to the new Statute. She noted that the Town is painting green lines to show the boundaries.

Chairperson Allinson noted that item 62-11F on the top of page 2 should be on page 1 under E. Atty. Small replied that much of that wording would come out due to the new Statute.

Councilor Reynolds asked if all of 62-10 A-F will be removed. Atty. Small confirmed.

Councilor Fishbein asked about restaurants doing dining in a back parking lot and if they would have to apply for a permit. Atty. Small replied that that situation is private property but she will check to see if the regulation addresses it. It is a permitted accessory use as long as the restaurant is conforming. Councilor Fishbein noted that 8-1cc subsection C allows it '.....provided it is in a zoning district where it is permitted and the use is in compliance'.

Chairperson Allinson stated that this will be added to the agenda for the May 7th Council Meeting.

6. Adjournment

Chairperson Allinson asked for a motion to adjourn.

MOTION WAS MADE TO ADJOURN THE APRIL 2, 2024 ORDINANCE COMMITTEE MEETING AT 7:35 P.M.

MADE BY: ALLINSON

**VOTE: UNANIMOUS
MOTION: PASSED**

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary