

COUNTY OF McLEAN, STATE OF ILLINOIS

ORDINANCE NO. 15-12-02-90

**AN ORDINANCE AMENDING TITLE 7, CHAPTER 1 – STREETS,
SIDEWALKS AND PUBLIC WAYS WITHIN THE MUNICIPAL CODE FOR
THE CITY OF LE ROY, McLEAN COUNTY, ILLINOIS, 2003 (AS AMENDED).**

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS
7th Day of DECEMBER 2015

PRESENTED: December 7, 2015

PASSED: December 7, 2015

APPROVED: December 7, 2015

RECORDED: December 7, 2015

PUBLISHED: December 7, 2015


In Pamphlet Form

Voting "Aye" 7

Voting "Nay" 0

The undersigned being the duly qualified and Acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned **ordinance** and that such **ordinance** was presented, passed, approved, recorded and published as above stated.

(SEAL)


Vicki Moreland, City Clerk of the
City of Le Roy, McLean County, Illinois

Dated: December 7, 2015

**CITY OF LE ROY
McLEAN COUNTY, ILLINOIS**

ORDINANCE NO. 15-12-02-90

**AN ORDINANCE AMENDING TITLE 7, CHAPTER 1 - STREETS, SIDEWALKS AND PUBLIC
WAYS WITHIN THE MUNICIPAL CODE FOR THE CITY OF LE ROY, McLEAN COUNTY,
ILLINOIS, 2003 (AS AMENDED)**

WHEREAS, The Mayor and City Council of the City of Le Roy, McLean County, Illinois, an Illinois municipal corporation, deem it to be in the best interest of the City and its residents that the Public Ways and Property ordinance amendment hereinafter set forth be approved: and

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Le Roy, McLean County, Illinois in lawful meeting assembled as follows:

SECTION 1. Title 7, Chapter 1, Section 7-1-2 is hereby adopted as follows: Subsection A. shall be amended and a new subsection (E) shall be created and worded as follows:

A. Obstructing Streets Public Ways Prohibited: No person shall place, throw or leave, or shall cause to be placed, thrown or left, any obstruction in or upon any street or alley **public way** except as authorized by ordinance.

E. Restaurant Use Of Public Sidewalks: For the purposes of this chapter, the term restaurant means any building, room, enclosure, place or establishment occupied and used as a place of business where food or drink is routinely served for public consumption on the premises, with charge. Such establishments include, but are not limited to, food establishments, food service establishments, coffee shops, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, taverns, bars, cocktail lounges and nightclubs. The building Code Enforcement Officer or his or her designee is authorized to promulgate rules and regulations pertaining to the use of sidewalks for restaurant and food establishment tables and; The Officer or his or her designee is authorized to issue permits for the use of public sidewalks for restaurant tables subject to the following conditions:

- (1) The use of sidewalks for restaurant tables shall only be permitted incidental to the operation of a restaurant on private contiguous property.
- (2) The application for the permit shall be submitted to the Code Compliance Officer in accordance with the terms set forth in this Code and, after reviewing the application, the license officer shall make a recommendation to the City Council as to either grant or deny said permit. After receiving the Officer's recommendation, the Council or its designee shall review the application and make a determination as to whether or not a permit shall be issued to the applicant. However, no permit shall be issued unless food operations are in compliance with McLean County Health Department regulations.
- (3) All applications shall be accompanied by written site plans which shall show, at a minimum, the boundary and location of the entrance and all surrounding fire hydrants, light poles, signs and trees.

- (4) Any time a sidewalk is used for restaurant tables, the sidewalk shall be adjacent to the restaurant and no restaurant shall be permitted to use neighboring businesses, residences or empty lots for sidewalk tables.
- (5) No special lighting device shall be constructed on the sidewalk area without the inspection and permission of the electrical inspector.
- (6) No food shall be prepared outside of approved kitchen facilities. Food must be prepared, refrigerated, etc., in accordance with all applicable laws, statutes, ordinances, codes, rules and regulations.
- (7) Sidewalks should be maintained such that the area shall be swept and flushed down daily to prevent any accumulation of food, grease or debris from spillage of any kind that may attract rodents.
- (8) Condiments (sugar, mustard, catsup and other condiments) shall be individually packaged.
- (9) No patron shall leave the area or an adjacent business establishment with an open beer, alcoholic beverage or liquor container.
- (10) The Code Enforcement Officer shall deny a permit to any individual, seeking a permit under this section, who is indebted to the city at the time when the individual requests the aforementioned permit.
- (11) In no event shall the uses permitted by this section reduce the open portion of any sidewalk to less than six feet in width. In no event shall the uses permitted by this section reduce the portion of any sidewalk so that wheel chairs, baby strollers, walkers and pedestrians are no longer allowed to pass on the sidewalk, and if there is not sufficient room to allow the aforementioned to pass on the sidewalk, the restaurant tables shall be declared a public nuisance.
- (12) In no event shall the uses permitted by this section be allowed to operate under scaffolding or construction canopy.
- (13) Littering of streets and/or sidewalks will not be allowed.
- (14) No permit shall be issued, pursuant to this section, unless the applicant shall furnish to the Code Compliance Officer or his or her designee evidence of public liability insurance, including the city as an additional insured and insuring the city against any liability resulting from the uses permitted pursuant to this section. The coverage shall not be less than \$1,000,000.00.
- (15) Persons issued permits pursuant to this section shall maintain the sidewalk area in a clean and safe condition and shall maintain the surrounding landscape so as to remove unhealthy materials and plants from the area.

- (16) All patrons of restaurants issued permits under this section shall be required to wear a shirt and shoes while at the restaurant.
- (17) No animals, other than animals trained to assist the handicapped, shall be permitted to enter the premises of restaurants issued permits under this section.
- (18) When due, the annual permit fee for any use pursuant to this section shall be \$25.00.
- (19) The permit may be revoked by the Code Compliance Officer or his or her designee.
- (20) Such permit shall be effective from March 1 to December 1 each year. The hours of operation shall be no earlier than 8:00 a.m. and no later than 1:00 a.m.
- (21) Restaurants issued permits for the use of public sidewalks under this section shall not play loud music, whether live or recorded, so as to violate any of the ordinances set forth in this Code.
- (22) Restaurants issued permits for the use of public sidewalks under this section shall not have, hire or permit live entertainment including, but not limited to, palm readers, tarot card readers, mimes or dancers at or around the public sidewalk area.
- (23) Restaurants issued permits under this section must comply with the outdoor furniture specifications, the outdoor furniture placement requirements and the duties of the permittee set forth in this code.
- (24) No permit shall be issued unless the applicant shall post and maintain with the Code Compliance Officer or his or her designee public liability insurance as provided in this subsection.
 - a) In addition to the policy of insurance, the permittee shall indemnify, save and hold harmless the city, its former, current and future officers, officials, fiduciaries, trustees, insurers, independent contractors and employees from any and all losses, costs, damages, expenses or liabilities which may result from or arise out of the granting of the permit and the use of sidewalks for restaurant and food establishment tables for which the permit is issued and the permittee shall pay any and all losses or damages that may be sustained by any person as a result of, or which may be caused by or arise out of such use of sidewalks for restaurant and food establishment tables. The policy of insurance shall be maintained in its original amount by the permittee at the permittee's expense at all times during the period for which the permit is in effect. In the event that two or more permits are issued to one permittee, one such policy of insurance may be furnished to cover two or more locations and each policy shall be of such a type that its coverage shall be automatically restored immediately from and after the time of the reporting of any accident from which liability may thereafter accrue. The city shall be named as an additional insured in said policy. The applicant shall furnish the city a certificate of insurance which must be in a form acceptable to the city attorney. The certificate of insurance shall be for at least the term of the permit and shall not be subject to cancellation without 30-calendar days actual notice to the city.

- b) The limit of liability upon any policy of insurance posted pursuant to the requirements of this section shall in no case be less than \$1,000,000.00 for personal injury claims and the city shall be added to the insurance policy as an additional insured.

Should an applicant not be granted a permit under this section, the applicant shall have the right to appeal.

- F. Use Of Sidewalk Space For Public Outdoor Furniture:** There is hereby established a public outdoor furniture program for the seasonal placement of outdoor furniture on the public way by restaurants and carryout food establishments for the use and benefit of the general public. Participation in this program shall require the issuance of a permit through the permit process set forth in this section and compliance with the regulations and requirements set forth in this section.
- 1) **Permit Required.** No person shall place or maintain any public outdoor furniture on any street without a permit. A separate permit must be obtained for each location, which permit shall be valid only for the particular furniture specified thereon. Each permit shall bear a separate number, and all said permits shall be issued by the license officer or his or her designee.
 - 2) **Permit Application.** No outdoor furniture permit shall be issued except upon written application of a licensed restaurant or carry-out food establishment within the city, made upon a form prescribed by the City Council, Code Compliance Officer or its or his or her designee, and said form shall state the location and duration of such use, including a site plan accurately showing the surrounding building site, the actual sidewalk widths, all existing encroachments into the sidewalk, the location and dimensions of the proposed furniture to be used, photographs or drawings of the furniture that depict the actual color and style of the furniture being proposed for public use and such other information as may be required by the city. Site plans, photographs and drawings submitted hereunder shall clearly indicate compliance with the specifications and requirements set forth herein. A restaurant operator shall have the option to apply for either an outdoor restaurant table permit or an outdoor public furniture permit but shall not be permitted to participate in both programs simultaneously. The application shall contain a statement which must be signed by the applicant which indicates that the applicant has fully read, understands and agrees to abide by the public outdoor furniture permit requirements and specifications and acknowledges that the applicant further understands that a failure to comply with same may result in the revocation of the permit.
 - 3) **Public Outdoor Furniture; Specifications.**
 - a. **Size:** The furniture must be of a size which permits it to be placed in the public way without extending beyond the excess sidewalk right-of-way, or reducing the unobstructed clear passage area of any sidewalk to less than six feet in width. In no event shall the uses permitted by this section reduce the portion of any sidewalk so that wheel chairs, baby strollers, walkers and pedestrians are no longer allowed to pass on the sidewalk, and if there is not sufficient room to allow the aforementioned to pass on the sidewalk, the public outdoor furniture shall be declared a public nuisance;
 - b. **Height:** The height of five percent of the public tables or at least one table, whichever is the greater number of tables, shall not be lower than a minimum of 30 inches, with a clear knee space of at least 27 inches. The tables which meet this minimum height requirement must also be identified with a handicap accessible sticker to be provided by the City of Le Roy.
 - c. **Material/workmanship:** The furniture must be sturdy and safe and must be constructed from quality materials with good workmanship.
 - d. **Color:** Furniture color must aesthetically compliment the permittee's property and must not be out of character with the business district where the furniture will be located.
 - e. **Umbrellas:** Table umbrellas shall be permitted under the following conditions:
 - 1) No umbrella shall exceed seven feet in diameter.
 - 2) No umbrella shall obstruct any street signs.
 - 3) No umbrella shall contain or display any type of message, symbol, logo or signage.
 - 4) No umbrella or umbrella part lower than seven feet from the sidewalk surface shall encroach into the six foot unobstructed clear pedestrian passage area, nor closer than two feet from curb line.

- f. Assistance available: Applicants with unique circumstances, or applicants who request assistance, shall submit a description of the applicant's circumstances to the license officer to seek advice and guidance.
- 4) Public Outdoor Furniture; Placement Requirements:
- a. The furniture shall be placed in compliance with A.D.A. regulations within public right-of-way.
 - b. Outdoor furniture for public use shall only be placed in the sidewalk right-of-way in front of the permit holder's business establishment. Excess sidewalk right-of-way is defined as that portion of sidewalk right-of-way located on the curbside of the required six feet of unobstructed clear passage area for pedestrians, which does not interfere with the pedestrian right-of-way, curb parking or other public improvements which exist in the public way.
 - c. Placement of public outdoor furniture shall at all times comply with the Fire Prevention Codes and all other applicable state and local laws relating to fire prevention and firesafety. The Fire Marshal, or his or her designee, will determine compliance with these provisions.
 - d. The standards and requirements set forth herein shall apply to all public outdoor furniture permits issued for encroachments on public rights-of-way in all town business districts, as described in the summary of r.o.w. widths, streets, sidewalks and parkways, at the end of this section.
- 5) Permit Liability Insurance Requirements: No permit required by this section shall be issued unless the applicant shall post and maintain with the license officer or his or her designee public liability insurance as provided in this subsection:
- a. In addition to the policy of insurance, the permittee shall indemnify, save and hold harmless the city, its former, current and future officers, officials, fiduciaries, trustees, insurers, independent contractors and employees from any and all losses, costs, damages, expenses or liabilities which may result from or arise out of the granting of the permit, to the installation or maintenance of the public furniture for which the permit is issued and the permittee will pay any and all losses or damages that may be sustained by any person as a result of, or which may be caused by or arise out of such installation or maintenance. The policy of insurance shall be maintained in its original amount by the permittee at the permittee's expense at all times during the period for which the permit is in effect. In the event that two or more permits are issued to one permittee, one such policy of insurance may be furnished to cover two or more locations and each policy shall be of such a type that its coverage shall be automatically restored immediately from and after the time of the reporting of any accident from which liability may thereafter accrue. The city shall be named as an additional insured in said policy. The applicant shall furnish the city a certificate of insurance which must be in a form acceptable to the city attorney. The certificate of insurance shall be for at least the term of the permit and shall not be subject to cancellation without 30 calendar days actual notice to the city.
 - b. The limit of liability upon any policy of insurance posted pursuant to the requirements of this section shall in no case be less than \$1,000,000.00 for personal injury claims and the town shall be added to the insurance policy as an additional insured.
- 6) Permit Expiration Fee Renewal: Each permit issued under this section shall expire on December 1 next following the date of issuance, unless renewed. A fee of \$25.00, for each outdoor public furniture location shall be charged annually. Applications for renewal must be submitted prior to the expiration date and must be accompanied by the renewal fee. All outdoor public furniture shall be removed from the public right-of-way on or before the expiration of the permit, December 1 of each year. The application for a permit shall be cancelled and denied if the applicant fails to deposit the annual fee and accept the permit within ten calendar days after notice of the approval of the application by the finance committee or its designee.
- 7) Permit Denial, Appeal and Hearing: Should an applicant not be granted a permit under this section, the applicant shall have the right to appeal the determination.
- 8) Duties of Permittee: It shall be the duty of any person holding a permit under the provisions of this section to maintain each outdoor public furniture location at all times in a safe condition and at its proper and lawful location, to inspect each piece of furniture periodically and to also comply with the following:
- a. The permittee shall make the outdoor public furniture available for use by the general public without regard to whether members of the public have patronized the permittee's business establishment.

- b. The permittee shall be responsible for preserving the six feet of clear passage area at all times including, but not limited to, taking necessary actions to prevent patrons, employees and/or members of the public from encroaching into the six-foot clear passage area.
- c. The permittee shall maintain all areas where the furniture is located and adjacent to where the furniture is located in a clean and sanitary manner including but not limited to, maintaining appropriate trash receptacles, sweeping on a daily basis the full right-of-way where the furniture is located and immediately cleaning and washing any liquid, food, debris, broken glass and/or other trash from the right-of-way.
- d. No food or beverages may be sold or served on the sidewalk right-of-way by the permittee, permittee's agent or employees or ordered by the patrons or members of the general public.
- e. No alcoholic beverages may be sold or served on the sidewalks by the permittee, permittee's agent or employees or ordered or consumed by patrons or members of the general public.

At all times, the permittee shall comply with all other local, state or federal laws, ordinances and regulations including, but not limited to, health and sanitation codes, rules, laws and regulations.

- 9) Permit; Revocation of Permit: The Code Compliance Officer or his or her designee may revoke or deny any permit issued under the provisions of this section for any violation of any of the provisions of this section for any fraud or misrepresentation in the application, or for any reason set forth in violation of the city code.
- (10) Removal of furniture. The city shall retain the right to remove public furniture from the public way at any time when, in its sole discretion, it determines that the placement of the public furniture violates the standards set forth herein, obstructs or creates a hazard on the public way or otherwise threatens the public health, safety and welfare.
- G. General Penalty:** Any person found to have been in violation of any of the terms and provisions of this code will be subject to penalties including fine(s) in an amount not to exceed seven hundred fifty dollars (\$750.00) as described in Title 1, Chapter 4 of the Municipal Code for the City of Le Roy, Illinois.

PASSED by the City Council of the City of Le Roy, Illinois, upon the motion
Made by Glen Reinhart, and seconded by Anne Anderson by roll call vote on the 7th day
of December, 2015, as follows

Aldermen elected 8

Aldermen Present 7

Voting Aye: Dawn Hanafin, Anne Anderson, Hilary Sandy, Glenn Reinhart, Judy
Marshall, Greg Steffen, Ron Legner


Voting Nay: None

Absent: Brad Poindexter

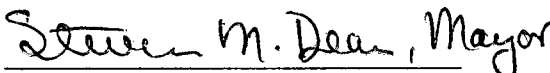
Abstain: None

Other: None


and deposited and filed in the office of the City Clerk in said municipality on the 7th
day of December 2015


Vicki Moreland, City Clerk of the City of LeRoy
Mc Lean County, Illinois

APPROVED BY the Mayor of the City of Le Roy, Illinois, this 7th day of
December 2015.


Steven M. Dean, Mayor of the City of Le Roy,
Mc Lean County, Illinois

ATTEST: (SEAL)


Vicki Moreland, City Clerk of the City of
Le Roy, Mc Lean County, Illinois

CERTIFICATE

I, Vicki Moreland, certify that I am the duly appointed and acting municipal clerk of the City of Le Roy, of McLean County, Illinois.

I further certify that on **December 7, 2015** the Corporate Authorities of such municipality passed and approved **Ordinance No. 15-12-02-90** entitled:

AN ORDINANCE ADMENDING TITLE 7, CHAPTER 1 – STREETS, SIDEWALKS, AND PUBLIC WAYS WITHIN THE MUNICIPAL CODE FOR THE CITY OF LE ROY, MC LEAN COUNTY, ILLINOIS, 2003 (AS AMENDED)

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. **15-12-02-90**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on **December 7, 2015** and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Le Roy, Illinois this 7th day of December 2015.

(SEAL)



Vicki Moreland, City Clerk of the City of
Le Roy, McLean County, Illinois

STATE OF ILLINOIS)
) SS:
COUNTY OF MCLEAN)

I, Vicki Moreland, do hereby certify that I am the duly qualified and acting City Clerk of the City of Le Roy, McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.


I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

**AN ORDINANCE AMENDING TITLE 7, CHAPTER 1 – STREETS,
SIDEWALKS AND PUBLIC WAYS WITHIN THE MUNICIPAL CODE FOR
THE CITY OF LE ROY, MC LEAN COUNTY, ILLINOIS, 2003 (AS AMENDED)**

I do further certify said *ordinance* was adopted by the City Council of the City of Le Roy at a regular meeting on the 7th day of December 2015, and prior to the making of this certificate the said ordinance was on file with the permanent records of said City where it now appears and remains as a permanent record of said ordinance in the record books.

Dated this 7th day of December 2015

(SEAL)


Vicki Moreland, City Clerk of the
City of Le Roy, McLean County, Illinois