

In Depth...

A major part of Emporia Main Street is advocacy. Advocacy for our members, advocacy for our philosophy and advocacy for our community. However, you cannot effectively advocate without understanding. When Emporia Main Street is presented with complex questions that can effect large portions of the community, we will use this forum to provide an in depth explanation of information garnered from different sources in response to our members needs.

The ordinance commonly referred to as the "Outdoor Drinking Ordinance" produced several questions from our Main Street Members concerning legalities and potential pitfalls that could occur from the implementation of an outdoor beer garden. So, Emporia Main Street contacted Wayne Weibel, the local enforcement agent of the Alcohol Beverage Control (ABC). One of the major concerns brought to Emporia Main Street concerned the topic of area "control". Simply put, if a business that serves alcohol wants to continually serve in a new area, that area must be mapped out with the state agency that issues alcohol licenses. Once mapped, unless the business changes the parameters of the license, the area is always under the "control" of the serving business. According to Mr. Weibel, this can potentially cause a problem for businesses during off hours in the following hypothetical scenario: If a bar were to close at 2:00 a.m., and an individual wandered by a beer garden after closing, and that individual were caught drinking inside the designated "beer garden", a police offer could technically charge the bar owner with after hours consumption. So, in essence, the bar owner would technically have to assert control of the area 24 hours a day because they are legally responsible for any consumption that occurs in the beer garden regardless of their open or closed status.

If, however, a bar owner wanted to create a temporary beer garden up to four times per year, they can do so during a set time period (with permission from the state ABC) and without creating the after hours consumption scenario stated above. Furthermore, even though a temporary permit can only be issued a maximum number of four times per year, that limitation exists on a per organization basis. So technically, and with proper authorization, multiple organizations could apply for multiple temporary permits for the same property over a given year. This technique is evidently employed in some communities to facilitate a beer garden atmosphere at multiple outdoor events. If you have any additional specific questions concerning the states stance on outdoor consumption, send them in and I will pass them along to our very helpful local ABC Agent. If you have a connection with an elected official at the state level, you may make them aware of the information listed in this article so they can consider altering legislation to facilitate a more sensible alternative to the status quo.

We are waiting on a digitized copy of the Community Initiated Development (CID) plan that Emporia Main Street can load on our web site. Once uploaded, we will produce an article which highlights the CID and allows users to reference the full document next week.

Back to home page: www.emporiainstreet.com

