

**FROM THE DESK OF MAYOR GREGORY H. EROSENKO**

Date: July 15, 2010

To: Monroeville Council Members

From: Mayor Greg Erosenko

Subject: Veto of Ordinance No. 2485

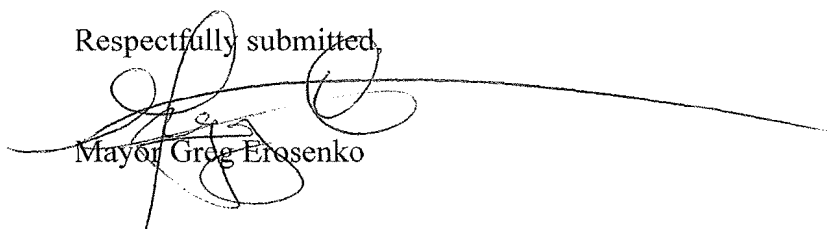
Dear Council Members,

This is my formal notice to you of my veto of Ordinance No. 2485 that was passed by Council at the regular business meeting of July 13, 2010. This executive power is granted to me by the Home Rule Charter; Article VI Section 604. Listed below are my objections to this Ordinance:

1. I requested of Council to consider tabling the Ordinance to allow more time for our residents and business owners to respond in person to council either in favor of, or object to the content of the Ordinance and this request was denied by your vote. I feel that any Ordinance that is this far reaching should be considered with as much in-put from our residents and business owners. You denied them in my opinion of this opportunity.
2. I also agree with our Chamber that this Ordinance is too far reaching; Example: Churches holding bake sales outside, do they need a permit? Retail businesses who would like to have a sidewalk sale, do need a permit as well? These are just some of the examples of how far this new Ordinance goes and I don't believe this was the intent of our code enforcement officials.

In closing, I do support an Ordinance that will have some control on outside dining as well as outside entertainment, but I feel this Ordinance went a little too far and again did not have proper in-put from our residents and business owners that live and work in our community.

Respectfully submitted,



Mayor Greg Erosenko

CC: Marshal Bond, Municipal Manager

**MUNICIPALITY OF MONROEVILLE  
ALLEGHENY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2485 - VETOED**

**AN ORDINANCE OF THE COUNCIL OF THE MUNICIPALITY OF MONROEVILLE, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 1443, THE MUNICIPALITY OF MONROEVILLE ZONING ORDINANCE, AS AMENDED, TO INSERT SPECIFIC REGULATIONS FOR OUTDOOR DINING AREAS AND TO INSERT DEFINITIONS FOR OUTDOOR DINING AREAS AND OUTDOOR ENTERTAINMENT.**

**WHEREAS**, the Municipalities Planning Code, 53 P.S. 10101 *et seq.*, authorizes the Municipality of Monroeville to regulate zoning and land use in the Municipality; and

**WHEREAS**, Ordinance No. 1443, the Municipality of Monroeville Zoning Ordinance (the "Zoning Ordinance") regulates zoning and land use within the Municipality; and

**WHEREAS**, the Council of the Municipality of Monroeville desires to amend the Zoning Ordinance to insert specific regulations for outdoor dining areas and to insert definitions for outdoor dining area and outdoor entertainment.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Council of the Municipality of Monroeville and it is hereby ordained and enacted by the Council of the Municipality of Monroeville, Allegheny County, Commonwealth of Pennsylvania as follows:

**SECTION 1.** A new section, Section 716, is inserted as follows:

OUTDOOR DINING AREA shall be an accessory use to an establishment, subject to the following provisions:

**A. Purpose**

The purpose of this section is to establish regulations for new and existing restaurants within the Municipality. These standards are designed to ensure that the space used for outdoor dining area shall, at all times, serve a public purpose and allow for adequate pedestrian circulation. The overall objective of this section is to provide a safe environment for diners, pedestrians, vehicular traffic and parking.

**B. Permitted**

Outdoor dining area may be permitted within the C-1 Shopping Commercial, C-2 Business Commercial and C-3 Commercial Zoning Districts as an accessory use to restaurants, coffee shops, taverns, bars, other food service establishments, retail establishments or an area's where patrons congregate.

### **C. Regulations**

1. All building sidewalk, fire hydrants and emergency exits shall have a minimum of four (4)-foot-wide unobstructed pedestrian ingress or egress.
2. No obstruction shall be placed within four (4) feet of the curb.
3. The OUTDOOR DINING AREA shall not exceed 10 percent of the total gross floor area of the structure where the principal use is conducted, subject to a maximum of 240 square feet. Additional square footage for the OUTDOOR DINING AREA above 240 square feet shall require a variance from the Zoning Hearing Board.
4. There shall be no additional parking requirement for an OUTDOOR DINING AREA of 240 square feet or less. An OUTDOOR DINING AREA greater than 10 percent (10%) of the total gross floor area of the structure where the principal use is conducted, or an OUTDOOR DINING AREA that exceed 240 square feet shall only be permitted if granted by variance from the Zoning Hearing Board and shall be subject to the off-street parking requirements of the Zoning Ordinance for the portion of the square footage of the OUTDOOR DINING AREA that exceeds 10 percent (10%) of the total gross floor area of the structure where the principal use is conducted or 240 square feet, whichever is applicable.
5. An OUTDOOR DINING AREA shall have a rope and stanchion as an enclosure unless some other barrier system is approved by the Municipality as an architectural design element.
6. An OUTDOOR DINING AREA shall be comprised of tables for dining. There shall be no standing room. No service equipment shall be permitted.
7. Furnishing for an OUTDOOR DINING AREA shall consist solely of moveable tables, chairs and decorative accessories. There shall be at least one (1) table that is ADA-complaint.
8. An OUTDOOR DINING AREA shall not be enclosed whether temporary or permanent.
9. The parking requirement for the OUTDOOR DINING AREA shall be calculated in the same manner as prescribed the underlying use.

10. Restaurant management shall be responsible for operating and supervising the OUTDOOR DINING AREA.
11. The OUTDOOR DINING AREA shall not encroach into any required front, side and rear yards.
12. The OUTDOOR DINING AREA shall not encroach into designated parking areas.
13. The OUTDOOR DINING AREA shall be adjacent to the principal structure.
14. Outdoor entertainment shall be prohibited.
15. An OUTDOOR DINING AREA shall not be located nor impede within a designated fire lane nor shall be placed within four (4) feet of any emergency exit and fire hydrant.
16. Prior to serving food or beverages outdoors, the establishment shall obtain all necessary permits from all governmental and municipal agencies having jurisdiction including, but not limited to, the Allegheny County Health Department and the Pennsylvania Liquor Control Board.
17. The OUTDOOR DINING AREA shall be closed no later than 11:00 p.m. prevailing local time.
18. The OUTDOOR DINING AREA shall comply with regulations in the Municipal Noise Ordinance 2188, as amended.
19. The OUTDOOR DINING AREA shall comply with Allegheny County Health Department regulations.
20. No signs shall be permitted in the OUTDOOR DINING AREA except a two (2)-foot by three (3)-foot identification or menu sign.
21. All refuse shall be located indoors.
22. Sanitary cleaning of the OUTDOOR DINING AREA before, during and after food service shall be required.
23. The use of retractable awnings or canopies shall be maintained at least eight (8) feet above sidewalk level and shall not exceed 15 feet in height.
24. The use of removable umbrellas shall be maintained at least seven (7) feet above sidewalk level and shall not exceed 15 feet in height.
25. No umbrellas, canopies or awnings shall block the view of any required safety signage.

26. Lighting shall be incorporated into the façade of the building and shall complement the style of the building. Lights on the building shall not be glaring to the pedestrians and shall illuminate only the OUTDOOR DINING AREA. General illumination shall be a minimum five (5) footcandles with a maximum of 10 footcandles.
27. Applicants shall provide information as required in Section 306, Site Plan Review.
28. No OUTDOOR DINING AREA shall be established or operated without first obtaining an Outdoor Dining Permit, subject to the licensing requirements in Chapter 256 of the Municipal Code, Mercantile (Business) Licenses, as amended.

**SECTION 2.** Article 6: Definitions is amended by inserting the following:

**OUTDOOR DINING AREA:** An area with seats and/or tables located outdoors of a restaurant, coffee shop, tavern, bar, other food service establishment, retail establishment or an area where patrons congregate.

**OUTDOOR ENTERTAINMENT:** The provision of television or musical, theatrical, dance, cabaret or comedy act performed by one or more persons either electronically amplified or not and/or any form of dancing by any person outside of any structure or any outdoor dining area.

**SECTION 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed. The following Ordinance or parts thereof are specifically repealed; and

**SECTION 4.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ORDAINED and ENACTED this 10<sup>th</sup> day of August, 2010.

VETOED

ATTEST:

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Timothy J. Little, Municipal Manager

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Gregory Erosenko, Mayor

ENTERED INTO LEGAL BOOK: