

COUNCIL ACTION FORM

SUBJECT: REQUEST FROM DELLA VITI (323 MAIN STREET) TO ALLOW ALCOHOL SERVICE AT A SIDEWALK CAFÉ

BACKGROUND:

Earlier this year, the City Council adopted new regulations regarding Sidewalk Cafés. These regulations allow for alcohol service in certain circumstances. Establishments that, under Section 17.16 of *Municipal Code*, may allow minors on the premises are permitted to serve alcohol at their sidewalk cafés without prior special approval. These applications are approved by staff. Establishments that are not allowed to have minors on the premises under Section 17.16 of *Municipal Code* must request approval from the City Council to serve alcohol at their sidewalk cafés.

Della Viti (323 Main Street) has submitted a request to implement a sidewalk café and serve alcohol at it. Della Viti has a Class C Liquor License and, because a majority of its sales come from selling alcoholic beverages, may not have minors on the premises according to Section 17.16 of *Municipal Code*. **Therefore, approval from the City Council is required to allow alcohol service at its proposed sidewalk café.**

The new sidewalk café regulations call for the City Council to consider requests from establishments in Della Viti's situation on a case-by-case basis. The Code specifies that the City Council shall consider the following factors when presented with a request:

1. **Site Conditions** – Della Viti's proposed site is open and unobstructed by existing street furniture, utility accesses, or other equipment. The proposed sidewalk café will utilize four tables and will take up five and a half feet of the 13-foot sidewalk. There is a large window in the front of the establishment that will allow staff to monitor the entire sidewalk café from inside the building. Della Viti has indicated a staff person will be dedicated to monitoring the sidewalk café.
2. **Compliance History/Staff Training** – A review of Police records indicates no liquor or nuisance violations in the past four years at Della Viti. According to the applicant, three of the five staff members have completed ServeSafe alcohol training and a fourth is scheduled to complete it this month. Additionally, their staff participated in Police Department ID training last year and the applicant has agreed to have staff attend one of the next two available sessions. The applicant has not participated in I-PACT (Iowa Program for Alcohol Compliance Training), but has indicated that will be made a priority for the staff. The applicant has stated that in-house training is conducted with staff when they are hired, which

includes ID checking. Additionally, it is a policy to take IDs from every patron in exchange for a card which operates the wine-dispensing system.

3. **Other Factors the Council Deems Relevant** – This is the first request the City has received to serve alcohol at a sidewalk café. Therefore, City staff does not have the experience to know what other issues the Council may wish to weigh when determining whether an exception should be granted to serve alcohol. Should the City Council have specific concerns, staff could request additional information from the applicant before the Council moves forward with approving or denying the request.

In addition to the above three specific issues, the Council must take into consideration with this request that the *Municipal Code* requires that any sidewalk café at which alcohol is served must operate with additional restrictions compared to those where alcohol is not served. The additional, required restrictions that would apply to Della Viti are:

- Patron ingress and egress shall be controlled and continually monitored by staff
- No alcoholic beverages may be sold or served later than 10 p.m.
- Patrons may not bring their own beverages to consume on the premises

Finally, the *Municipal Code* empowers the City Council to impose special conditions on any sidewalk café granted an exception to dispense alcohol if it feels such restrictions are appropriate.

City staff met with the applicant to review these and other sidewalk café regulations. Upon review of the application materials, the application appears complete and in order. Della Viti has applied for an Outdoor Service Privilege, which will be presented to the City Council as part of Della Viti's regular liquor license renewal on May 23rd. **Because holding the appropriate liquor control license is a pre-requisite to allow alcohol service at a sidewalk café, Council approval of Della Viti's request to serve alcohol must be made contingent upon obtaining an Outdoor Service Privilege.**

ALTERNATIVES:

1. Approve the request from Della Viti to allow alcohol service at its sidewalk café during the 2017 sidewalk café season, contingent upon Della Viti obtaining an Outdoor Service Privilege as part of its liquor license renewal.
2. Approve the request as stated in Alternative 1 above, but require the applicant to have all staff complete I-PACT and Police ID card training within three months of approval.
3. Approve the request from Della Viti to allow alcohol service at its sidewalk café during the 2017 sidewalk café season with any additional special conditions established by the City Council.

4. Refer the request to staff for additional information.
5. Deny the request.

CITY MANAGER’S RECOMMENDED ACTION:

The service of alcohol at sidewalk cafés is a new experience for the City. City staff has on occasion had issues with compliance at bars hosting events where alcohol is being served outside. Due to both these factors, City staff believes requests to serve alcohol outside on an ongoing basis at establishments where little to no food service will occur should be closely scrutinized.

In this instance, the establishment has an exceptional compliance record, and has adopted procedures that maintain a safe, controlled environment where alcohol is served. The establishment has offered to participate in additional training for its staff to maintain compliance. The application for the sidewalk café indicates a proposed outdoor service area that can be easily monitored and that does not attempt to overcrowd the area. The applicant has responded cooperatively to requests for additional information and appears to have a good understanding of the requirements in place for compliant service.

Staff should note that the alternatives presented indicate approval is for only the 2017 sidewalk café season (April through October, according to *Municipal Code*). Sidewalk café applications must be completed anew each season; they do not carry over from year-to-year. Because this is the first experience with alcohol service at sidewalk cafés, it seems prudent to City staff to limit the approval for alcohol service to the 2017 sidewalk café season. A new request would need to be submitted to the City Council for 2018 and each subsequent season if the applicant wished to make alcohol service an annual activity. The experience from 2017 could form a part of staff’s analysis if future requests are made.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the request from Della Viti to allow alcohol service at its sidewalk café during the 2017 sidewalk café season, contingent upon Della Viti obtaining an Outdoor Service Privilege as part of its liquor license renewal.