

Staff Report

**MODIFICATIONS TO OUTDOOR DINING RELATED TO COVID-19**

June 23, 2020

**BACKGROUND:**

At its meeting on June 9, 2020, the City Council asked the Mayor to reach out to Chamber to survey if there are ways Ames policies could be customized during COVID-19 to encourage more use of outdoor space for sidewalk café purposes, including possibly alcohol service.

Responses received from the Chamber's outreach were forwarded to City staff, and are as follows:

1. Allow parking spaces to be used for temporary outdoor seating, without affecting minimum parking requirements, storm water requirements, or other development standards.
2. Use the City right-of-way for patio space.
3. Allow signage to be placed in the City right-of-way to advertise the business.

Although the first issue identified above is not provided for in the existing Municipal Code, the use of City right-of-way for patio space is allowed under the existing Sidewalk Café Code. Additionally, the Sign Code contains provisions for temporary signage on sidewalks, but only in the Downtown Service Center and Campustown Service Center zones.

**ZONING STANDARDS:**

It is important to understand that there are two different sets of regulations that may apply to a business seeking to extend its dining area in Ames. The Sidewalk Café Code applies to the use of City sidewalks for outdoor dining. For the extension of dining on private property, the Zoning Ordinance and other site development standards apply.

Outdoor dining is not directly addressed within the Zoning Ordinance and is considered an allowed ancillary use associated with a restaurant. No additional parking is required with for a restaurant with outdoor dining. The temporary use of existing space with no new paving or structures would be permitted without the need for a Site Development Plan. If new paving or structures are proposed, those features would require a Site Development Plan; staff does not recommend waiving this requirement, since paving and structures are not considered "temporary." Outdoor dining would need to conform to minimum walkway and access clearance requirements.

**Currently, the only potential conflicting zoning standard for temporary outdoor dining would be if someone decided to displace parking spaces for outdoor dining and they did not meet minimum parking requirements. If the establishment had extra parking spaces, there would be no conflict with the City's zoning standards.** Stormwater regulations would not apply to outdoor dining in existing areas due to the one-acre threshold of review related to new paving and structures.

### **ALCOHOL SERVICE:**

The Council's motion included a request to seek feedback about alcohol service. No feedback was provided to staff from the Chamber related to alcohol service. Under the existing Sidewalk Café Code, alcohol service is permitted with an alcoholic beverage control license and outdoor service privilege approved by the local authority and issued by the Iowa Alcoholic Beverages Division.

Establishments that conduct most of their sales (more than 50%) in food are permitted to seek alcohol service at a sidewalk café with staff approval. Establishments that conduct most of their sales (more than 50%) in alcohol may seek permission for a sidewalk café, but must meet additional Sidewalk Café Code standards, in an effort to avoid creating bar patio spaces on the public right-of-way.

### **OTHER MODIFICATIONS TO CONSIDER:**

The Sidewalk Café program was overhauled approximately in 2017. Since that time, many new sidewalk cafes have been established. While the City Council's directive was to explore temporary changes to the Sidewalk Café Code during the COVID-19 emergency, City staff has identified two aspects of that program that should be considered for a permanent change:

#### **Barriers:**

Under the existing Sidewalk Café Code, barriers at least 42 inches in height are required to delineate the sidewalk café area. This was intended to ensure that tables and chairs do not encroach into the area of the sidewalk reserved for pedestrian travel. This requirement has been identified by proprietors as a hindrance in conversation with City staff.

It is staff's opinion that barriers are necessary if alcohol is to be served at a sidewalk café, due to state regulations requiring a delineated premise covered by the alcohol license. However, if alcohol is not served at the sidewalk café, staff believes that the requirement for barriers could be removed so long as proprietors are responsible for ensuring their tables and chairs do not encroach on the pedestrian portion of the sidewalk.

Extension of sidewalk café into frontage of adjacent business with permission:

The City's current Sidewalk Café Code requires sidewalk cafes to be limited to the frontage of the business they are attached to. In some instances, this area is not very wide, or is congested by street furniture.

City staff believes allowing sidewalk cafes to be extended into the frontage of an adjacent property, with permission of the adjacent property owner, would be beneficial to the sidewalk café program and the Downtown/Campustown atmosphere. It may make operating a sidewalk café a more economical venture for proprietors.

It should be noted that even with this extension, the Code requires that sidewalk cafes be contiguous. Therefore, a break in the café area for ingress/egress at the store entrances is not permitted, even if providing such a break would allow the café to extend further along the adjacent building's façade.

**OPTIONS:**

1. Direct staff to:
  - a. Temporarily waive enforcement of minimum parking requirements for standard parking stalls (not ADA parking stalls) for the temporary use of an existing parking lot for outdoor dining subject to conformance with sidewalk clearance and vehicle access standards of the Zoning Ordinance through October 31, 2020.
  - b. Temporarily waive the provisions of Section 21.134 through October 31, 2020, for the purpose of allowing temporary portable signs on public sidewalks in zones other than DSC and CSC.
  - c. Temporarily waive enforcement of Section 22.32(b)(4) through October 31, 2020, for the purpose of allowing sidewalk cafes to extend into the frontage of an adjacent business, provided permission has been obtained from the adjacent property owner.
  - d. Prepare an ordinance to permanently remove the requirement in the Sidewalk Café Code for barriers to be in place if alcohol service will not be provided.
  - e. Prepare an ordinance to permanently modify the Sidewalk Café Code to allow a sidewalk café to extend in front of an adjacent business, provided the extension is approved by the adjacent business owner and ingress/egress to the adjacent business is not blocked.
2. Direct staff to make other modifications to the sidewalk café or site development standards.

3. Do nothing.

**STAFF COMMENTS:**

Staff is supportive of the three temporary changes reflected in Option 1a, 1b, and 1c above, as long as it is understood that the signage placed on public sidewalks is adjacent to the sidewalk café. In addition, the staff believes the two recommended permanent changes shown in Option 1d and 1e are worthy of Council's support as well.