

**COUNCIL ACTION FORM**

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

**BACKGROUND:**

In 2017, 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 as long as the applicant obtains the appropriate Outdoor Service Privilege for its license. **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. This establishment received Council approval to operate a sidewalk café with alcohol sales during the 2017, 2018, and 2019 sidewalk café seasons. 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 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 five years at Della Viti. According to the applicant, three of the five staff members have completed ServeSafe alcohol training. Additionally, staff members of the establishment have regularly participated in Police Department ID training. The applicant has participated in I-PACT (Iowa Program for Alcohol Compliance Training). The applicant has stated

that in-house training continues to be conducted with staff when they are hired, which includes ID checking. Additionally, it is a policy to take IDs from every patron who enters the premises in exchange for a card which operates the wine-dispensing system.

3. **Other Factors the Council Deems Relevant** – During the review of previous requests from Della Viti, the City Council did not identify other factors to consider when weighing whether to grant approval for requests of this type. 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, 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 consume outside beverages 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. **No conditions were imposed by the Council in granting the 2019 approval for Della Viti.**

Upon staff review of the application materials, the application appears complete and in order. Della Viti's current Outdoor Service Privilege is valid through June 17, 2020; its renewal is on the Agenda for May 26, 2020. 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 subject to maintaining an Outdoor Service Privilege if it would like to continue providing alcohol service at its sidewalk café during the second half of the 2019 Sidewalk Café season.

**The Governor's public health order as of May 22 does not permit on-premises service at a bar. It is expected that this restriction will be lifted in the coming days or weeks. Therefore, if this request is approved, it must be conditioned upon 1) bars being allowed to re-open by the state, and 2) compliance with any hygiene or social distancing restrictions required by the state.**

## **ALTERNATIVES:**

1. Approve the request from Della Viti to allow alcohol service at its sidewalk café during the 2020 sidewalk café season (through October), subject to: 1) Della Viti maintaining its Outdoor Service Privilege, 2) the Governor's public health orders allowing bars to re-open to on-premises service, and 3) compliance with any social distancing or hygiene conditions the Governor may impose upon bars.
2. Refer the request to staff for additional information.
3. 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 occasionally 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 participated 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.**

**It should be noted that the alternatives presented indicate approval is for only the 2020 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. This follows the practice established with approval of previous requests for alcohol service at sidewalk cafes. Requiring new requests each year ensures an opportunity to review performance and impose special conditions or withhold approval if the establishment fails to meet the Council's expectations.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.