

**COUNCIL ACTION FORM**

**SUBJECT: ORDINANCE RELATING TO SIDEWALK CAFE BARRIER AND PLACEMENT REQUIREMENTS**

**BACKGROUND:**

On June 23, 2020, in response to public health guidance for physical distancing of restaurant patrons, the City Council relaxed requirements for outdoor dining through October 2020. This allowed restaurants to space patrons further apart into outdoor seating areas, meeting the spacing requirements and minimizing the reduction of the total number of patrons who could be served.

**At that time, the City Council also directed staff to prepare an ordinance change to the Sidewalk Café Code to permanently address two aspects of operating a sidewalk café.** These two changes are discussed below.

**BARRIER REQUIREMENT:**

The Sidewalk Café Code requires that barriers be placed between the sidewalk café and the pedestrian travel path on the sidewalk. These are typically fence sections, planters, or weighted posts with chains. This requirement is intended to reduce the encroachment of tables and chairs into the pedestrian travel path on the sidewalk.

The proposed change would remove the requirement for barriers separating the sidewalk café from the traveling path on the sidewalk, at sidewalk cafes where alcohol is not served. Where alcohol is served, barriers would still be required as a means to delineate the extent of the licensed service area.

Since the Sidewalk Café Code was overhauled approximately five years ago, City staff has observed that the barrier requirements appear to be one of the more challenging aspects of the Sidewalk Café Code to maintain compliance with. Even with the removal of the requirement for barriers in certain situations, other provisions of the Sidewalk Café Code outline the expectation for tables and chairs to avoid encroaching on the traveling path of the sidewalk.

**EXTENSION ONTO ADJACENT FRONTAGE:**

Sidewalk cafes are not currently permitted to extend any farther along the sidewalk's length than the frontage of the indoor restaurant associated with the sidewalk café. The proposed change would allow sidewalk cafés to extend along in front of an adjacent business, provided the extension is approved by the adjacent business owner and the ingress/egress from the adjacent business is not blocked.

This change would allow for longer and larger sidewalk cafes to be established, and for spaces in front of other establishments (such as retail stores) to be used with permission.

City staff has prepared an ordinance to implement these modifications, which is attached.

**ALTERNATIVES:**

1. Approve first reading of an ordinance amending Section 22.32 of Municipal Code pertaining to Sidewalk Cafes to modify the barrier requirements and the extension of sidewalk cafes along an adjacent frontage.
2. Direct staff to make modifications to the draft ordinance.
3. Do not approve the proposed ordinance.

**CITY MANAGER'S RECOMMENDED ACTION:**

The two proposed changes to the Sidewalk Café Code lessen the requirements for Sidewalk Café operators, making it easier to implement a successful sidewalk café operation. The encroachment of tables and chairs into the sidewalk traveling path is still prevented through other aspects of the Sidewalk Café Code, and extensions along an adjacent frontage would be allowed only if the adjacent business owner consents.

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

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 22.32(B)(4) AND SECTION 22.32(J) AND ENACTING A NEW SECTION 22.32(B)(4) AND A NEW SECTION 22.32(C)(2)(V) THEREOF, FOR THE PURPOSE OF SIDEWALK CAFÉ MODIFICATIONS REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ENACTED**, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended as follows:

**“Sec. 22.32. SIDEWALK CAFÉ PERMITS.**

...

(b) **Where Permissible.** A sidewalk cafe shall be permitted as follows:

...

(4) Provided the area in which the sidewalk café is located extends no farther along the sidewalk’s length than the actual sidewalk frontage of the operating indoor business, or no farther than the actual sidewalk frontage of an adjacent business with the written permission of the adjacent business operator, or a combination of the two, and all other applicable provisions of this subsection are fulfilled.

(c) **Restrictions on Smoking and Alcoholic Beverages.**

Permittees shall enforce the following prohibitions or restrictions:

...

(2) Alcoholic beverages may be served at sidewalk cafes pursuant to a valid liquor control license, and in accordance with state and local alcoholic beverage control laws, provided the following additional requirements are met:

...

(v) **Delineating Sidewalk Cafe Area.** The sidewalk cafe shall be delineated by barriers at least forty-two (42) inches in height separating patrons from the pedestrian traffic on the sidewalk and, if applicable, roadway traffic. Barriers may consist of ropes, chains, planters, fencing, or other sturdy material that physically separates the sidewalk café from the adjoining right-of-way. Barriers separating a sidewalk café from roadway traffic must be secured to other barriers or weighted to prevent their encroachment into driving or parking lanes. Barriers shall comply with detectability requirements as set forth in the current version of the Americans with Disabilities Act Accessibility Guidelines. Barriers shall be set within the 50 percent of the sidewalk designated for the sidewalk cafe, to ensure a minimum of four (4) feet of sidewalk width clear of obstructions, and

(vi) Alcoholic beverages shall not be served or dispensed at the sidewalk café of any establishment where minors are prohibited according to Section 17.16, except that establishments permitted to have minors on the premises only during certain hours of the day according to Section 17.16 may serve alcohol at their sidewalk café only during those hours. An establishment which is not permitted to have minors on the premises at any time may request, and the City Council may grant, an exception to this requirement on a case- by-case basis. The City Council shall consider the site conditions, the compliance history of the establishment and its staff, staff training, and any other factors it deems relevant to ensuring the safe and responsible use of City sidewalks. The City Council may impose special conditions in addition to those indicated in this Section on any sidewalk café granted an exception to dispense alcohol.”

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Diane R. Voss, City Clerk

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John A. Haila, Mayor