



MEMORANDUM

DATE: February 11, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 8.2: Ordinance 19-02: Outdoor Sidewalk Cafes

REQUEST: Recommendation to City Council – Ordinance 19-02 An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes.

GENERAL INFORMATION

The City Council discussed the concept of outdoor sidewalk cafes at a work session on January 7, 2019. The Council reached consensus to consider a code amendment providing for such cafes in the Downtown. The Council referred the matter to the Planning Commission (legislative capacity) for a recommendation on code language. The Commission took up discussion of draft code language at the January 14th meeting and continued the item to the February meeting. Draft code amendment language is attached.

The Commission requested staff seek input from the Police Chief pertaining to the potential to retain a five-foot clear sidewalk in front of buildings by shifting café seating area into parking area of public right of way. The Police Chief prefers to have temporary sidewalk re-routed into parking area to provide further separation between motorists and café seating, noting what is predictable is preventable. Liquor licensing is also problematic if café is separate from structure.

The Commission also requested language requiring a deposit for work/occupation of the public right of way be reviewed. Staff has discussed the concept and recommends inclusion of the requirement in the permit application, similar to the requirement contained applications for work in the right-of-way.

For background, following is discussion context and then recommendations from various committees:

Context

- Studies and actual occurrences of sidewalk cafes in other communities demonstrate they can: attract pedestrians and increase lingering, foster a spirit/culture of creativity/art/destination, positively impact the urban landscape and maximize use of space/re-envision space, and encourage walking/activity in the Downtown, and make businesses appear more active
- Discussion of sidewalk cafes has been limited to the Downtown – Central Business District.
- Main Street East and Meridian Street South are under county jurisdiction; therefore, use of paved portion of the right of way is likely not available for sidewalk re-route. Main Street West and Meridian Street North are local roadways.
- Staff has conducted a literature survey of several communities and reached out to other cities in Scott County. Most cities allow sidewalk cafes in some form, none specifically allow re-route of sidewalk into the boulevard but several commented they would consider.
- Hopkins and Wayzata allow re-route of sidewalks into the boulevard but limit occurrences of sidewalk cafes to restaurants and brew pubs in an effort to limit the quantity of cafes. Sample language is attached and potentially applicable standards are highlighted.
- The Design Committee reviewed several images of sidewalk cafes and commented on preferences. Visuals and summary comments are attached.

Recommendations from other Committees

1. The Public Works Committee found the concept worthy of consideration provided it was seasonal/temporary (e.g. April – Oct) and that the nature of cafes was high quality. A not-insignificant plan/permit fee was thought to have potential to limit numbers of cafes and increase quality of cafes.
2. The Public Safety Committee found the concept worthy of consideration.
3. The EDA provided input on:
 - a. Temporary, seasonal use of parking spaces within the Downtown for reroute of sidewalk or occupation by sidewalk café. The EDA notes parking has been the topic of discussion in the past but ultimately feel the sense of place/interest effects of sidewalk cafes outweigh concerns regarding loss of parking. The EDA recommends permit applicants be required to inform abutting property owners of their planned sidewalk café and that the sidewalk café be limited to the width of the applicable business lot.
 - b. If all businesses should be eligible for a café (fairness issue) or if only certain classes of businesses like restaurants and brewpubs (Hopkins, Wayzata standards) should be eligible for a sidewalk café to limit the potential number of sidewalk cafes. The EDA recommends any business be allowed to apply for a sidewalk café provided the bar for entry was set higher. Use of street/parking is limited for roads under County jurisdiction.
 - c. Burden of new potential regulations on businesses that have in the past put tables/chairs in the sidewalk. The EDA recommends if tables/chairs leave adequate space for pedestrians (e.g. meet ADA code requirement) and the tables/chairs are able to be moved inside when the businesses are closed that they may be allowed without being considered a sidewalk café, but subject to Chapter 605.03 of the code pertaining to obstruction of right of way.
4. The Design Committee commented on potential design requirements as follows:
 - a. Re-route of sidewalk into parking spaces should look appealing to and safe for pedestrian use; meet applicable codes.
 - b. Sidewalk cafes occupying the entire sidewalk should be fenced/contained so as to provide physical separation for diners/pedestrians and increase curiosity what was 'going on'.
 - c. Fencing has to be high quality, sturdy, semi-permanent, and intended for outdoor use, no wood fencing, no solid fencing, no plastic/webbing/rope, no advertising on fence
 - d. Lighting shouldn't be required or prohibited.
 - e. Landscape plantings should be required and attached to fence vs. placed on the ground.
 - f. Canopies/umbrellas for protection from sun/rain shouldn't be required or prohibited. Advertising on umbrellas should not be allowed.
 - g. No signage allowed except for table-top and/or sandwich boards.
 - h. Furniture must be designed for outdoor use, able to withstand high wind/rain/sun, sturdy, higher quality.
 - i. Trash handling is important. Trash receptacles, regular cleaning, and pick up garbage within/around café should be required.

The City Council agreed to consider language providing for outdoor sidewalk cafes at the January 7, 2019 work session. Staff has drafted Ordinance 19-02 for consideration/comment. The Ordinance has been presented to department heads, the City Administrator, and the City Attorney for review.

The draft language included in Ordinance 19-02:

1. Requires a license for outdoor sidewalk cafes. The license is reviewed/approved administratively unless required conditions are not met.
2. Exempts placement of tables and chairs in the sidewalk providing: a minimum five-foot clear zone is provided for pedestrians; tables/chairs are able to be moved indoors after hours; and, the Public Works Superintendent approves of the placement.

3. Requires a site plan be submitted and that immediately adjacent property owners be notified of the intended sidewalk café.
4. Requires proof of insurance be submitted.
5. Conditions applicable to: (a) the site; (b) café design; and, (c) site/café management apply.
6. Outdoor sidewalk cafes are limited to the Central Business District adjacent to Main & Meridian.

ACTION:

The Planning Commission is to make a recommendation on Ordinance 19-02 to the City Council. Attached Resolution 19-002 is provided for consideration.

**CITY OF BELLE PLAINE
ORDINANCE 19-02**

**AN ORDINANCE AMENDING CHAPTER THREE OF THE CITY CODE BY ADDING SECTION 316
PERTAINING TO OUTDOOR SIDEWALK CAFES**

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE ORDAINS:

Section 1. Chapter Three of the City Code pertaining to Business and Licenses is hereby amended as follows:

SECTION 316.00 OUTDOOR SIDEWALK CAFES.

- 316.01 Findings
- 316.02 License Required
- 316.03 Exemption
- 316.04 Application
- 316.05 Fee
- 316.06 Conditions of Approval
- 316.07 License Revocation
- 316.08 Penalty

316.01 FINDINGS.

The City Council finds outdoor Sidewalk Café seating for businesses provides multiple benefits to the City.

- A. Outdoor seating can attract the attention of pedestrians and increases their stay thereby promoting the adjacent business and increasing other businesses' visibility when customers choose to be seated outside.
- B. Outdoor seating can foster a creative and innovative spirit that furthers the identity of the Downtown as a destination.
- C. Aesthetically pleasing and nontraditional settings of Sidewalk Cafes provide additional options where pedestrians can relax, enjoy, and interact with others.
- D. By repurposing city on-street parking spaces into outdoor seating the urban landscape is renewed in an innovation fashion and viewshed are enhanced.
- E. Outdoor seating encourages more pedestrian activity by livening up the street, creating more things to look at, and making the businesses appear more active.

316.02 LICENSE REQUIRED.

An outdoor Sidewalk Café permit is required to operate an outdoor sidewalk café in the public right-of-way. Licenses issued under this section shall expire on December 31 of each year.

316.03 EXEMPTION. Placement of tables/chairs in a public sidewalk which (a) maintain a clear pedestrian passageway of not less than five (5) feet in width, (b) are capable of being moved indoors each evening, and (c) have been authorized by the Public Works Superintendent are exempt from this standard.

316.04 APPLICATION.

- A. Application Form. An application for a license shall be made with the City Administrator's Office on a form which has been approved by the City.
- B. Insurance Requirement. The Applicant shall submit proof of a public liability insurance policy covering all operations of the applicant under this article, during the full term of the license for the sum of \$300,000 combined single limit coverage. The City shall be named as an additional insured. Such policy shall provide that it may not be cancelled by the insurer except after 30 days written notice to the city, and if such insurance is cancelled and the licensee fails to replace it within another policy that conforms to the provisions of this article, the license shall be automatically suspended until the liability insurance is replaced. All applicants for a license must file with the city a certificate of workers' compensation insurance if such insurance is required by state law.
- C. Site Plan Required. A plan, drawn to scale, which illustrates the locations and dimensions of the proposed sidewalk café, adjoining buildings, sidewalk, proposed landscaping, and all obstructions within the vicinity shall be submitted with the application form.
- D. Notification of Adjacent Property Owners Required. The Applicant shall notify businesses immediately adjacent to the proposed Outdoor Sidewalk Café area. Notifications shall include a site plan for the café and the anticipated duration of the outdoor sidewalk café.
- E. The License application shall be reviewed administratively subject to the conditions of this Chapter. Any significant changes to the conditions will require review and approval by the City Council. The License is subject to any required inspections and final approval shall be by the Public Works Superintendent.

316.05 FEE.

The annual fee for the license shall be set by City Council resolution.

316.06 CONDITIONS OF APPROVAL.

- A. Site Specific Requirements.
 - 1. Sidewalk Cafes may be considered within the Central Business District adjacent to Main and Meridian Streets.
 - 2. Sidewalk Café area shall be limited to the public right of way abutting the frontage of the business to which it is attached.
 - 3. Sidewalk Café must be located at least 20 feet from any fire hydrants.
 - 4. Sidewalk Café must not block sight lines at intersections as determined by the City Engineer and/or Public Works Superintendent.
 - 5. The City maintains the right to review and make final determination as to the location of each Sidewalk Café based on the unique circumstances related to each business.
- B. Design Specifications.
 - 1. If the operating business serves alcoholic beverages, a decorative barrier or railing between 32 and 42 inches in height is required around the sidewalk café area. The barrier shall be comprised of high quality, durable materials suitable for outdoor use such as powder coated

decorative aluminum fencing/railing, be sturdy and weather resistant, and be consistent with the quality of design and color palette of structures in the vicinity of the café.

2. Lighting, if proposed, must be illustrated on the site plan, be directed downward, and be compatible with the surrounding area.
3. Annual/perennial flowers/landscaping attached to a barrier or railing shall be used to enhance the streetscape aesthetics.
4. Canopies/umbrellas may be used for weather protection.
5. Sidewalk Café area must meet ADA (American Disability Act) requirements.
6. Design consideration must include architect and characteristic of area.
7. No commercial signage may be placed on the sidewalk café area, except for on table tops. Sandwich board signs may be allowed provided they are removed from the café each evening.
8. There shall be a minimum clear passage zone for pedestrians of at least five feet shall be maintained at all times.
9. Umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum head clearance of seven feet.
10. If a temporary walkway structure that bumps out into the roadway is used:
 - a. The structure shall be constructed of metal or composite material or other weather resistant, long lasting, high quality material.
 - b. Maximum width shall not exceed eight feet
 - c. Maximum length shall not exceed 40 feet, or the length of the frontage of the business to which it is attached, whichever is smaller.
 - d. Decorative barriers between 36 inches and 42 inches in height are required separating the pedestrian walkway from the roadway.
 - e. Reflective bollards or strips must be located at either end of any portion of the structure located within the roadway.
 - f. Directional signage shall be used to assist pedestrians in utilizing the walkway.
 - g. Surface of structure must be leveled with sidewalk surface up to one fourth (1/4) of an inch clearance.
 - h. No more than a half (1/2) inch gap between the structure and the curb is permitted.
 - i. Structure may not impede water flow and drainage.

C. Management Specifications.

1. The furniture associated with the Sidewalk Café shall be moveable, washable, constructed of metal or composite or other high quality material, and maintained in a safe and sanitary condition.

2. The Sidewalk Café area shall be controlled and monitored continuously during the hours of operation and unruly patrons shall be removed immediately.
3. Patrons shall not leave the premises with a drink nor can drinks be taken onto a public sidewalk that is outside of the Sidewalk Café area.
4. The Sidewalk Café area must be included in the required liquor liability insurance for the premises.
5. Hours of operation of the Sidewalk Café shall be limited to between 10:00 a.m. and 11 p.m. from April 15 thru October 15.
6. Permittee shall not allow smoking within the Sidewalk Café area.
7. Alcoholic beverages may only be brought into the Sidewalk Café area by a server.
8. Permittee shall pick up litter within 50 feet of the Sidewalk Café area on a daily basis. Appropriate receptacles for rubbish, garbage, etc. must be provided.
9. The Sidewalk Café area must be free of debris, litter, and soil surrounding and underneath any structure or platform.
10. No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the Sidewalk Café area.

316.07 LICENSE REVOCATION.

Failure to comply with any provision of this article may result in the revocation of the license by the City Council, following a public hearing. Written notice of the public hearing shall be mailed at least 10 days prior to the hearing to the current holder of the license. Such notice should outline the violation(s) considered by the city to be grounds for revocation and inform the license holder of the opportunity to be heard at the public hearing.

316.08 PENALTY.

In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

Section 2. This Ordinance shall become effective upon publication in the official newspaper of the City.

Passed and duly adopted by the City Council of the City of Belle Plaine this ____ day of _____, 2019.

BY: _____
Christopher G. Meyer, Mayor

ATTEST:

Dawn Meyer, City Administrator

Published in the Herald on _____, 2019.

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ-19-002**

**RECOMMENDING APPROVAL OF ORDINANCE 19-02, AN ORDINANCE AMENDING
CHAPTER THREE OF THE CITY CODE BY ADDING SECTION 316 PERTAINING
TO OUTDOOR SIDEWALK CAFES**

WHEREAS, City staff has drafted and amendment to the City Code pertaining to licensing of outdoor sidewalk cafes pursuant to a request for review and discussion by the Public Works Committee, the Public Safety Committee, the Design Committee, and the Economic Development Authority; and,

WHEREAS, the City Council reviewed the concept of outdoor sidewalk cafes at a work session on January 7, 2019 and referred to matter the Planning Commission for review of a code amendment; and,

WHEREAS, the Planning Commission reviewed and discussed Ordinance 19-02, An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes at a regular meeting on January 14, 2019.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve Ordinance 19-02, An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes.

The adoption of the foregoing resolution was duly moved by Commissioner _____, and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same: _____.

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of January, 2019.

Ashby Carter
Chairperson

Cynthia Smith Strack
Community Development Director