

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	January 28, 2013
	<b>Agenda Item No.</b>	<b>53</b>
	<b>Roll Call No.</b>	<b><u>13-0163</u></b>
	<b>Communication No.</b>	<b><u>13-037</u></b>
	<b>Submitted by:</b>	<b>Phillip Delafield, Community Development Director</b>

**AGENDA HEADING:**

Amendment to Chapter 102 and design guidelines relating to sidewalk café design and operational standards.

**SYNOPSIS:**

The amendments will clarify the expectations the City of Des Moines has regarding operation and design standards relating to sidewalk cafés. Additionally, the amendments clarify the processing of license and permit applications and establishes an appeal process.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On August 13, 2012, the City Council heard two (2) applications for sidewalk cafes. Roll Call No. 12-1290 was presented for a renewal of a lease agreement for an area of sidewalk in front of and adjacent to 208 3rd Street. Roll Call No. 12-1293 was presented regarding a request to vacate and lease an area of sidewalk in front of and adjacent to 214 3rd Street.

City staff, including the Des Moines Police Department, presented evidence that the street, when encumbered by a sidewalk café, did not leave adequate open sidewalk to support walking traffic. City Council was shown video of foot traffic being diverted to the street as crowds gathered on the sidewalk and passage on the sidewalk was impossible.

The City Council voted to not approve the lease for 208 3rd Street and not vacate and lease the sidewalk adjacent to 214 3rd Street. They further directed the City Manager’s Office to review the sidewalk café program and present recommendations for amendment.

Staff spent considerable time reviewing the intent of the sidewalk café program, how it is working currently and problems experienced over the years. It was felt that the ordinance and program needed some changes to insure that the sidewalks were being used for the best and highest use for the public.

On December 17, 2012, staff’s suggestions were presented to the City Council at a Workshop. The suggestions include a terminology change to clarify that a leased area is an area separated from public use and would allow the sale of alcohol. An area with a permit would be a temporary daily use with no alcohol consumption.

The amendment clarifies administrative duties and moves them by ordinance amendment from the City Manager's Office to the Community Development Department. This change then allows the Community Development Department to enter into permits. Further, the amendment to the ordinance sets up an appeal process, through Chapter 3, should the Community Development Department find that a lease should be denied or suspended for non-compliance with the lease agreement or a city ordinance.

The City Council retains approval of the vacation of a right-of-way not deemed necessary for public good, to rescind the vacation of an area if it is found to be required for the public good, approve initial lease agreements and lease agreements that have been expired for more than one year.

The changes will also affect the design guidelines for the leased area. The area must now allow six feet of clear sidewalk to accommodate pedestrians and wheelchairs. The area cannot be cut around a permanent obstruction, such as a light pole. The area must provide for placement of tables and chairs with enough area for service of customers. The total allowed occupancy shall not exceed the number of seats provided for customer seating. The operator of the business shall be required to discourage patrons within the leased area from interrupting the flow of pedestrian traffic on the adjoining sidewalk.

In addition staff has simplified the lease and permit applications. This will be of benefit to all those who are seeking to obtain a lease or permit.

The ordinance will have no affect on the businesses that currently have a vacated and leased space previously approved by City Council. In the future, renewals of those leases will not be presented to City Council for approval.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: July 10, 2006

Roll Call Number: [06-1361](#)

Action: [Approved](#) amendments to Chapter 10 of the Municipal Code regarding sidewalk café. Moved by Vlassis and approved 7-0.

Date: July 10, 2006

Roll Call Number: [06-1362](#)

Action: [To](#) approve Design Standards for Sidewalk Cafes. Move by Vlassis and approved 7-0.

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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