

***ITEM 6** Development Services requests approval of Ordinance Text Amendments to Section 14.34.480 (Sidewalk Cafes) to update standards and regulations for outdoor seating. Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230246

Applicant: Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider the information presented. *The next available meeting date is November 8, 2023, at 6:00 P.M.*

2. **Recommend Denial** the requested ordinance text amendments. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: Staff have recently been reviewing the standards and policies for outdoor dining and noted gaps in the code and licensing. This proposal is to address those gaps to ensure the right process is followed.

Neighborhood Issues: This is a citywide application that can affect multiple neighborhoods. The topic has been posted on Open City Hall and has received no comments.

Summary of Key Issues:

- The proposal updates buffer and umbrella height standards for outdoor dining.
- The proposal clarifies responsibility for maintenance of any sidewalk café.
- The proposal creates new operational seasons and requirements for furniture removal in the winter.

Staff Recommendation: Staff recommend that the proposed amendments are recommended for approval by the Planning Commission to the City Council.

OVERVIEW

The Development Services Department hopes to improve the standards for outdoor dining in Section 14.34.480 of the Provo City Code. This section was enacted in 2010 but has recently gained more attention as the desire for outdoor dining has increased in the last few years.

The purpose of the proposed amendments is to strengthen safety regulations, clarify responsibilities, and to define an operational period. Specifically, new improvements along Center Street for these spaces have triggered the need to redefine how to separate outdoor dining from adjacent roadways. Additionally, without a written standard, some table umbrellas have become hazards for pedestrians and clear sight triangles for vehicles. The amendments to these subsections have been reviewed and approved by Provo Engineering.

Another purpose of the proposal is to clarify who is responsible for cleanup and maintenance of these spaces, which was a priority for Provo Parks and Recreation, as they maintain a majority of Center Street public spaces. The final change is to add a regulation to only operate sidewalk cafes between March and October, removing private furniture outside of those months so snow removal can be done.

STAFF ANALYSIS

Staff will analyze these amendments against Section 14.02.020, Provo City Code, which states that “Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public and is consistent with the goals and policies of the Provo City General Plan.” The following guidelines shall be used to determine consistency with the General Plan: **(responses in bold)**

(a) Public purpose for the amendment in question.

The public purpose for these amendments is to provide consistency, safety, and protect the health of Provo residents.

(b) Confirmation that the public purpose is best served by the amendment in question.

Defining buffers from vehicle traffic, responsibility for cleaning and maintenance, and solving issues with snow removal do help to meet the above public purpose.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

The proposed amendments align with goals in Chapter Three to “review and revise Provo City Code to make it more consistent and accessible”, in Chapter Five to “encourage . . . commercial properties that integrate both social and retail needs”, and in Chapter Seven to “Continue Provo City’s high standards of constructing and maintaining high quality facilities.”

(d) Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.

There are no timing and sequencing provisions related to this request.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

Staff believes that these amendments will only further the policies found in the General Plan, not hinder, or obstruct them.

(f) Adverse impacts on adjacent landowners.

There should not be any adverse impacts on adjacent landowners due to these code changes.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Does not apply.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Does not apply.

CONCLUSIONS

Staff believe that these amendments will help to provide consistency and safety through commercial areas of Provo and help to implement standard licensing procedures to ensure that these areas are kept clean and properly maintained.

ATTACHMENTS

1. Proposed Amendments

ATTACHMENT 1 – PROPOSED AMENDMENTS

14.34.480

Sidewalk Cafes.

Where permitted by the underlying zone, and notwithstanding the provisions of Chapters 9.15 and 15.12, Provo City Code, a sidewalk cafe shall be permitted if the following requirements are met:

- (1) An applicant submits scaled plans demonstrating that the cafe will conform to the following development standards:
 - (a) At least six (6) feet of clear, unobstructed sidewalk width will remain available for pedestrian use.
 - (b) Sidewalk cafes shall be separated from the street by either a six (6) inch curb and two (2) foot setback OR bollards every six (6) feet adjacent to a street. ~~have a five (5) foot setback between the dining area and a driveway, alley, street or another public sidewalk.~~
 - (c) If a sidewalk cafe is designed to have more than one (1) row of tables and chairs, a non-sight-obscuring removable barrier not more than three (3) feet high enclosing the tables and chairs shall be constructed. Barrier gates shall not swing into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
 - (d) Awnings associated with the cafe will be installed in accordance with the International Building Code. Umbrellas under seven (7) feet in height shall not extend into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
 - (e) Signs associated with the cafe will be installed in accordance with provisions of the underlying zone. One (1) freestanding menu sign is permitted for each sidewalk cafe subject to the sign being located within the approved cafe area and being no more than six (6) square feet in size.
 - (f) Adequate facilities for the storage of trash generated by the cafe will be provided at a convenient location by the café owner(s) or operator(s).

- (2) A revocable license from the City is executed that includes the following provisions:
- (a) Insurance will be continuously maintained to adequately co-insure Provo City against any liability associated with the sidewalk cafe, as reasonably determined by the City. The insurance certificate shall name the City as an "additional insured." Cancellation of such insurance shall require at least thirty (30) days prior notice to the City.
 - (b) Provo City, its officers, agents and employees, will be held harmless from any claims, causes of action, injuries, losses, damages, expenses, fees and costs, including attorneys' fees, associated or arising from the operation of the cafe.
 - (c) The cafe owner and operator will be responsible for repair of any damage done to the public sidewalk due to the installation or removal of furnishings, barriers or other features of the sidewalk cafe.
 - (d) Hours of cafe use will be limited to not earlier than 6:00 A.M. and not later than 12:00 A.M. and will not exceed the operating hours of the associated eating or drinking establishment.
 - (e) Any music or entertainment shall meet the sound limitation requirements outlined in Chapter 9.06.
 - (f) The sidewalk cafe and surroundings will be maintained in a neat and clean condition at all times by the café owner(s) or operator(s).
 - (g) The Cafe owner and operator will remove cafe improvements if necessary for sidewalk repair or replacement, utility maintenance, or upon failure to comply with the terms of the agreement.
 - (h) Sidewalk cafes shall only be operated between March 1 and October 31. Furniture shall be removed from the right-of-way outside of these dates.