

Staff Report

SIDEWALK CAFÉ CLOSURES RELATED TO COVID-19

May 26, 2020

BACKGROUND:

At its May 12 meeting, the City Council considered how to proceed with a variety of activities, including activities taking place on City streets and sidewalks. The staff report included an analysis of approximately a dozen specific activities and whether staff could support approval of each event in light of the COVID-19 pandemic. **The report omitted a discussion regarding Sidewalk Cafes and Outdoor Service Areas which were prohibited by the State since March 17, when bars and restaurants were closed by the Governor.**

On May 13, the Governor issued a proclamation permitting the reopening of restaurants with certain restrictions, effective May 15. Consequently, on May 21 the City staff received the attached letters from Ames Main Street and the Ames Chamber of Commerce, requesting that the City begin issuing Sidewalk Café Permits.

In order to adequately address what is being requested, the issue requires a discussion of the different types of service at sidewalk cafes based on the Governor's orders and Municipal Code.

Scenario 1 – Restaurants (Food Only)

Restaurants are permitted to be open under the Governor's orders. Should the City Council wish to allow restaurants to serve only food on City right-of-way, a Sidewalk Café Permit can be issued administratively by the City Clerk. The restaurant would have to comply with all requirements in the Ames Sidewalk Café ordinance, as well as the Governor's restrictions on dine-in service at restaurants. The Governor's restrictions include:

- Limiting the number of customers present to 50% of normal operating capacity
- No groups of more than six people
- Six feet of distance between dining parties
- No self-service (including buffets or salad bars)
- Following other guidance issued by state agencies

Scenario 2 – Restaurants (Food with Incidental Alcohol Service)

The Ames Sidewalk Café ordinance distinguishes between restaurants and bars. An establishment that conducts at least 50% of its business in food sales is treated like a restaurant, while an establishment that conducts less than that in food sales is treated

like a bar. Under Ames Municipal Code, restaurants wishing to serve alcohol at a sidewalk café may obtain a Sidewalk Café Permit administratively by the City Clerk if the requesting restaurant already has obtained an Outdoor Service Privilege for its alcohol control license from the City Council.

In this situation, the establishment would still meet the definition of a restaurant under the Governor's public health order, and would be eligible to serve patrons if it followed the Governor's restrictions as described above in Scenario 1.

Scenario 3 – Bars (Alcohol with Incidental or no Food Service)

Ames Municipal Code allows establishments where alcohol sales are a majority of the sales to only obtain a Sidewalk Café Permit when an exception is granted by the City Council.

The Governor's order dated May 13 indicates that bars are to continue to be closed to the general public except for carry-out service through the end of the day May 27. **Therefore, state law as of the date of this writing would not permit bars to host a sidewalk café.** On May 22, the Governor announced that a revised set of restrictions would be issued prior to the expiration of her order on May 27. It is possible, but not guaranteed, that a revised order will permit bars to reopen to on-premises service.

If the Governor's orders are revised to permit on-premises service, it is important to note that permission to do so may come with conditions (such as the conditions in place for restaurant service).

City staff has received applications for sidewalk cafes from Della Viti and Mother's Pub. Both these establishments are considered bars under local and state regulations. Their applications are on the City Council agenda for May 26. **If the City Council approves the resumption of sidewalk café permits, the Council could approve one or both of these permits contingent upon the state restrictions for bars being eased.**

OPTIONS:

1. **A. Authorize staff to begin issuing Sidewalk Café Permits for restaurants and establishments that serve alcohol incidental to food service.**

All permit holders would be expected to abide by any state regulations as a condition of approval (limitations on patron numbers, etc.)

- B. Direct staff to accept applications for sidewalk cafes at bars.**

This action would allow the City Council to consider the applications from Della Viti and Mother's Pub later in the May 26 City Council agenda.

2. **Authorize staff to begin issuing Sidewalk Café Permits only for food service.**
3. **Authorize staff to begin issuing Sidewalk Cafes for food service, and direct staff to bring back a discussion of alcohol service at sidewalk cafes once state restrictions on bars have eased.**
4. **Do not allow sidewalk cafes through October 31.**

STAFF COMMENTS:

It is important to note that the main emphasis reflected in the May 12 staff report was to assure a gradual reopening and phased increase in personal interactions by prohibiting large gatherings through August. In addition, these types of events pose the greatest danger to our residents since it would be very difficult to assure adequate social distancing which is still being recommended even as parts of the economy begin to reopen.

Because of the operational requirements imposed by the Governor, an argument can be made that sidewalk cafes will not involve large number of people on which our main justification for prohibiting certain events was based and, therefore, should be allowed.



May 21, 2020

Mayor and City Council
City of Ames
515 Clark Ave
Ames, IA 50010

Dear Mayor Haila and Members of the Ames City Council,

As we continue to adapt to the new normal associated with COVID-19, we are contacting you today seeking clarification of your recent decision to cancel/postpone all public events in the public right-of-way through September 1st. As a result of the cancelation of events in the right of way, we have had several businesses reach out to us seeking clarification on their ability to have sidewalk cafes/outdoor seating.

Ames Main Street appreciates the precautions taken to protect public health and safety, but sidewalk cafes/outdoor seating do not involve a large gathering of over 10 individuals, and social distancing and other appropriate precautionary measures can be taken to ensure the public's safety.

Along these lines, it is important to note any business offering outdoor seating would be required/expected to keep with all capacity limitations, social distancing requirements, and any other direction and guidance from the Governor and the Iowa Department of Public Health, as well as any additional guidance you may provide.

For these reasons, Ames Main Street supports allowing outdoor seating throughout Ames, if said requirements, guidance, and direction are adhered to of course. Offering this amenity to their patrons is a key component of several businesses' operation during the spring and summer months, and Ames Main Street is fully supportive of allowing them to do offer this option to their customers.

Thank you for your prompt consideration of this matter. As always, please let me know if we can be of assistance in any way.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Kamp', enclosed within a large, loopy oval scribble.

Drew Kamp
Executive Director



Ames™
CHAMBER OF COMMERCE

Smart Choice

Mayor and City Council
City of Ames
515 Clark Avenue
Ames, IA 50010

May 21, 2020

Dear Mayor Haila and Members of the Ames City Council,

Following your recent decision to cancel/postpone all public events in the public right-of-way through September 1st, we have had several businesses reach out to us seeking clarification on their ability to have sidewalk cafes/outdoor seating.

We certainly understand the steps the City has taken to protect the public health and well-being, but sidewalk cafes/outdoor seating are not public events in which large numbers of people will gather, hence the need to clarify if they are included in your most recent direction.

It is important to note, any business offering outdoor seating would be required/expected to keep with all capacity limitations, social distancing requirements, and any other direction and guidance from the Governor and the Iowa Department of Public Health.

For these reasons, the Ames Chamber of Commerce supports sidewalk cafes/outdoor seating to be allowed throughout Ames, if said requirements, guidance, and direction are adhered to. Being able to provide such services and offerings is a key component to several businesses' success during the spring and summer months, and we are fully supportive of allowing them to do so.

Thank you for your prompt consideration of this matter. As always, please let me know if we can be of assistance in any way.

Sincerely,

Dan Culhane
President and CEO, Ames Chamber of Commerce