

Memorandum
City of Lawrence
Planning and Development Services Department

TO: David L. Corliss, City Manager

FROM: Planning Staff

CC: Diane Stoddard, Assistant City Manager
Cynthia Wagner, Assistant City Manager
Jonathan Douglas, City Clerk

DATE: November 12, 2012

RE: Sidewalk Dining – Umbrellas in pedestrian pathway

Agenda item: Consider revisions to Chapter 6, Article 12 of the City Code and to the accompanying Administrative Regulations to revise the standards related to sidewalk dining to address umbrella height, railing materials, and amplified music and sound within sidewalk dining areas.

Discussion

The sidewalk dining license article in the city code contains several standards to maintain the public's safety and welfare so that private dining can exist in the public pathway in a safe manner. Chief amongst the standards is maintaining a six-foot wide clearance on the sidewalk so pedestrians can pass in a safe and convenient manner. Many sidewalk dining areas have placed umbrellas in the dining area or have attached umbrellas to the perimeter fence. Some of these umbrellas protrude out of the established dining area and into the six-foot clear zone, often at a height that is too low for safe passing.

Staff surveyed Massachusetts Street on November 2, 2012 and found 12 businesses that employed umbrellas as shading in the sidewalk dining area. All 12 appeared to provide less than 80 inches in clear height from the sidewalk to the lowest point of the umbrella and most, if not all, overhung the fenced leased area into the pedestrian way of the remaining sidewalk area. This is due to the preferred installation of the umbrella on the fence. Photos have been included below to reflect the current use of the umbrellas.

The City Commission recently directed staff to propose a revision to require that umbrellas meet a certain height standard. Staff proposes that umbrellas maintain 80

inches of clearance from the ground to the lowest part of the umbrella both inside and outside of the leased area. This is based on building code and ADA requirements to ensure safe passage in the public right-of-way. The proposed [language](#) is attached.

The Downtown Design Guidelines do not specifically address umbrellas, but do state that sidewalk dining areas “shall be unenclosed and shall be open to the sky with the exception that it may be covered with a retractable awning or fixed awning, which is compatible with the surrounding area.” Umbrellas are viewed by staff to be temporary fixtures and thus their use is not misaligned with this standard.

An alternative would be to prohibit umbrellas on the sidewalk area, both inside and outside of the leased sidewalk dining area. This would ensure that the pedestrian way is clear of any potential obstacle.

Staff reviewed the sidewalk dining standards of Chapter 6, Article 12 for alignment with the Downtown Design Guidelines and found two conflicts. The first is that the Guidelines permit railings and barriers to be ornamental metal, wrought iron, or other compatible materials that reflect the character of the area. The standards of Chapter 6, Article 12 permit only wrought iron. Staff proposes to change Chapter 6, Article 12 to reflect the Guidelines and permit more choices of railings and barriers, as is the practice.

The second conflict was the amount of pedestrian way required to be maintained. The Guidelines require that a minimum of six (6) feet or half the width of sidewalk, whichever is greater, remain unobstructed in the downtown area; however, the Guidelines state that, “Consideration may be given to providing a minimum of five (5) width on local streets such as 7th, 8th, etc.” The standards of Chapter 6, Article 12 require all sidewalk dining areas, regardless of which street they are located on, to maintain six (6) feet of unobstructed pedestrian way. Staff recommends maintaining the more restrictive standard of Chapter 6, Article 12 of six (6) feet and noting the conflict for a future amendment to the Downtown Design Guidelines.

Revising the sidewalk dining standards provides an opportunity to codify a standard related to amplified music and sound. Staff often receives complaints of amplified music or sound coming from businesses in the downtown area. Some are related to sidewalk dining and some are not. Staff proposes a standard that would require that any amplified music or sound not be audible past 20 feet of the sidewalk dining area. This is an objective, measurable standard that could be determined by an inspector in the field.

We are fortunate to be in the process of relicensing all sidewalk dining establishments. Per code, the city must provide a copy of administrative regulations to the license holders at the time a license is issued. Said regulations become

conditions of approval of the license. Whichever revision the Commission approves will be incorporated into the administrative regulations and will go into effect for the upcoming year. Staff will provide the license holders a copy of the regulations and will plan a follow-up inspection shortly thereafter. Proposed [administrative regulations](#) are included that align with staff's recommendations of this memo.

Staff has noticed a proliferation of noncompliant signs in or near sidewalk dining areas. The inspection will place emphasis on complying with the sign code, as well as requiring that low umbrellas be raised or moved as directed by the Commission.

Staff Recommendation

1. Adopt a standard that any and all umbrellas maintain a height of 80 inches from the sidewalk to their lowest open height.
2. Revise the standard related to railings and barriers to permit ornamental metal, wrought iron, or other compatible materials that reflect the character of the area.
3. Adopt a standard that limits amplified music and sound to within 20 feet of a sidewalk dining area.

Commission Options

1. Direct staff to revise the Sidewalk Dining License standards as recommended.
2. Direct staff to revise the Sidewalk Dining License standards in a revised way.
3. Do not revise the Sidewalk Dining License standards at this time.

Note: An ordinance will be drafted after receiving Commission direction.







