



Sam Adams Mayor

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MEMORANDUM

Date: February 13, 2009
To: City of Portland

From: Sidewalk Café Permit Program Advisory Committee

Subject: Summary Final Recommendation of Sidewalk Café Permit Program Advisory

Committee

Project: Sidewalk Café Permit Program Update

The Portland Bureau of Transportation (PBOT) is updating its Sidewalk Café Permit Program, a program that was initiated in 1980. Changes will address three main aspects of the program: enforcement, fees, and site criteria.

An advisory committee was formed in September 2008 of business, restaurant, neighborhood, pedestrian, and disabled interest groups, as well as relevant City bureaus. The committee concluded in February 2009. The committee was assigned to review the current Sidewalk Café Permit Program and make recommendations to improve the program for all users of the City's sidewalks. We are seeking City Council approval to enact the committee's recommendations by amending Portland City Code Title 17 Chapter 25, Sidewalk Cafés.

In January 2009 two open houses provided the draft recommendations of the advisory committee to the public and restaurants. In addition, a survey seeking comment on the draft recommendations was held.

OPEN HOUSE

Both open house events were held on January 26, 2009, one morning and one evening event. The draft recommendations of the advisory committee were presented and staff from the Bureau of Transportation answered questions and discussed the proposals. Recommendations were presented in the form of displays, divided into three areas: "Enforcement", "Fees", and "Site Criteria". Twenty four signed-in, but approximately fifty attended. Attendees were asked to complete a survey seeking comments on the recommendations.

PUBLIC SURVEY

An online survey was opened on January 1, 2009 and closed on February 10, 2009. Participants linked to the survey through the "Sidewalk Café Permit Program 2009 Proposed Changes" on the City's website. Materials displayed at the open house events, in addition to records of the advisory committee's meetings were also on the website and participants were invited to complete the survey after reviewing the website materials.

A total of thirty seven surveys were submitted; eighteen at the open house events and nineteen online.

Current sidewalk café permit holders represented 35% of those who took the survey; 22% were businesses that serve food or beverage and did not have a current sidewalk café permit; 43% were pedestrians who could be impacted by sidewalk cafés.

The biggest concern of the businesses represented (both permit holders and those without) was the fee increase (for such reasons as the current recession, the amount of the increase, and suspected government waste.) Six of the twenty one businesses had no concern with the fee increase.

The general expression of the pedestrian population was that the program pays for itself and that there is effective enforcement. Some expressed concern that, although the concept was a great improvement to current conditions, it would not result in real change.

SUMMARY FINAL RECOMMENDATION

Site Criteria

A Sidewalk Café will only be allowed where the sidewalk is at least 8 ½ feet wide. Café operations will be allowed only within the Area of Operation, which shall be established by the City Engineer.

The following table shows the minimum width of the <u>Clear Pedestrian Zone</u> for a given sidewalk width.

Sidewalk Width	Clear Pedestrian Zone Minimum Width*
Greater than or equal to 8' 6" and less than or equal to 10' 0"	5' 6"
Greater than 10' 0" and less than 15' 0"	6' 0"
Greater than or equal to 15' 0"	8' 0"

^{*} Sidewalk width is determined by City records. Adjustments may be made at the discretion of the City Engineer when field measurements conflict with City records.

The Clear Pedestrian Zone is the area reserved for travel; no café operations are allowed in this area and the area must meet City standards and be free of hazards as described in the Sidewalk Maintenance Program Policy & Operating Guidelines (TRN-1.11).

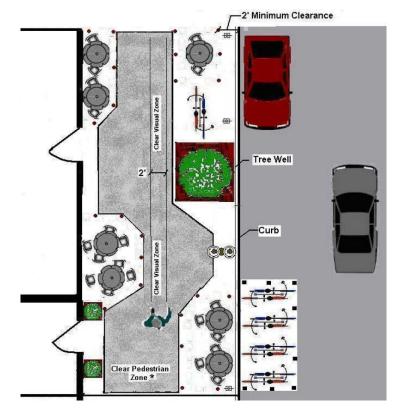
The Clear Pedestrian Zone shall be free of all obstructions, permanent and temporary. This includes objects such as posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, vegetation, trees, treewells, planters, literature and news racks, parking meters, bus shelters, benches, tables, chairs, umbrellas, heaters, and waste receptacles.

Obstructions controlled by the café or property owner that extend into the Clear Pedestrian Zone must be at least 7 feet above the sidewalk surface within the Clear Pedestrian Zone.

Within the Clear Pedestrian Zone there must also be a continuous, straight passage at least 2 feet in width, known as the <u>Clear Visual Zone</u>, to provide pedestrians with a clear visual indication of the direction and location of the Clear Pedestrian Zone. The Clear Pedestrian Zone is allowed to meander to navigate obstructions, but its ability to do so is limited by the Clear Visual Zone.

A Sidewalk Café may be allowed Pinch Points that are less than the required minimum Pedestrian Clearance Zone width. At a <u>Pinch Point</u>, the minimum Pedestrian Clearance Zone width is reduced by 6 inches for a length of no more than 2 feet. Pinch Points must be at least 4 feet from adjacent Pinch Points. Pinch Points are to be used at the discretion of the City Engineer as a tool to allow compliance in areas with space conflicts.

To ensure compliance with the Americans with Disabilities Act, there must be a continuous passage at least 4 feet in width with a maximum 2% pavement cross slope within the Clear Pedestrian Zone.



Curbside seating may be allowed, subject to approval, and must allow a 2 foot buffer from the curb. Loading zones, bus stops, adjacent travel lanes or other conditions may prohibit curbside seating. The 2 foot buffer may be waived at PBOT's discretion when seating is adjacent to bike corrals or no-parking zones.

Storage of materials shall be prohibited. All tables and materials shall be removed within a period of 10 days from the right-of-way when not in use. Nightly removal of furniture may be required, on a case by case basis, if determined necessary for safety or other reasons at the discretion of the City Engineer. The Portland Police Bureau or the Office of Neighborhood Involvement may provide recommendations for the consideration by the City Engineer.

Enforcement

Enforcement of sidewalk cafés, either in violation of permit conditions or operating without a permit, will remain complaint driven. The Bureau of Transportation does not have the resources to actively police sidewalk cafés without further increasing fees. The Bureau of Transportation and the Police Bureau's Neighborhood Response Teams have formed a partnership to pursue chronic, non-cooperative, and hazardous violators. Bureau of Transportation staff will investigate reports of cafés in violation. The Police Bureau may also report violations to the Bureau of Transportation.

Violators without a sidewalk café permit will be asked to remove any café furniture from the right-of-way and will be provided with application materials; those whose café operation does not pose an immediate hazard may be issued a temporary sidewalk café permit contingent on starting the application process for a standard sidewalk café permit. Those who do not seek a permit, or do not meet permit requirements but choose to continue to operate, will be cited by the Police Bureau.

Permit holders in violation will be allowed three warnings within a one-year period, regardless of the nature of the violation. Each warning will result in the issuance of a written warning. Non-compliance regarding the specified violation will result in additional warnings. Non-compliance with a third warning or the issuance of a fourth warning, within a one year period, will result in immediate revocation of the sidewalk café permit and a recommendation of citation by the Police Bureau.

The Police Bureau may issue a citation at any time, under applicable law, independent of the number of written warnings issued by the Bureau of Transportation.

Permit holders whose sidewalk café permits are revoked must pay a \$350 reinstatement fee before a permit may be reissued. This fee is designed to recover some of the Bureau of Transportation's costs incurred during the enforcement process.

Fees

The fee structure will consist of two components: an Application Fee and an Annual Permit Fee.

The Application Fee will cover costs for the application and permit issuance process, such as Bureau of Transportation staff consultation, review of application materials, site visitation, and site set-up. The Application Fee will be required of new applicants and those previous permit holders whose permits have lapsed.

The Application Fee will consist of \$4.50 per linear-foot of Area of Operation length plus a \$150.00 base fee.

Application Fee Example: 25 linear feet of Area of Operation length (regardless of width): (\$4.50 per linear-foot x 25 linear-feet) + \$150.00 base fee = \$262.50 Application Fee

A \$50.00 payment toward the Application Fee will be due at the time of application; the total Application Fee will be calculated after the total linear-feet of sidewalk café operations is determined. The permittee will have the choice of paying the entire Application Fee at the time of permit issuance or paying the fee in three annual installments.

The Annual Permit Fee will cover costs of issuance and administration of the Sidewalk Café Permit Program.

The Annual Permit Fee will consist of \$1.50 per linear-foot of Area of Operation length plus a \$75.00 base fee.

Annual Permit Fee Example; 25 linear feet of Area of Operation length (regardless of width): (\$1.50 per linear-foot x 25 linear-feet) + \$75.00 base fee = \$112.50 total Annual Permit Fee

The full Annual Permit Fee will be due at the time of permit issuance for each year's annual permit.

Implementation

The Application Fee will be waived for all sidewalk café applications received in 2009; this policy will encourage cafés, both those permitted under past regulations and those who do not hold current permits, to quickly begin participating in the program. The Application Fee will apply to all new permit applications submitted after January 1, 2010.