

SDOT

Director's Rule 2 - 2008

Applicant: CITY OF SEATTLE Seattle Department of Transportation (SDOT)	Page 1 of 9	Supersedes: N/A
	Publication: XX/X/08	Effective: XX/X/08
Subject: Sidewalk Cafés	Code and Section Reference: SMC Chapter 15.16	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.12.020 and 15.16.040	
	Approved	Date
	Grace Crunican, SDOT Director	
Index: Street and Sidewalk Use, Sidewalk Cafes		

I. Rule and Background

This Rule interprets the Seattle Municipal Code (SMC) 15.16.040, Terms and Conditions, with regard to pedestrian passage and design standards applicable to sidewalk cafés.

Seattle's street rights-of-way are an important and complex public resource. The Seattle Department of Transportation (SDOT) is authorized to manage Seattle's transportation system and strives to operate and maintain this system to support public health and safety for all members of the traveling public of all ages and abilities. SDOT is also responsible for overseeing permit processes for public rights-of-way, including the sidewalk café permit application process. SDOT encourages sidewalk cafés in order to activate the street-level pedestrian environment. SDOT is responsible for the sidewalk café review and permitting process on public rights-of-way. Seattle Municipal Code Chapter 15.16 establishes the authority and objectives of design standards for sidewalk cafés within the City of Seattle.

II. Definitions

From SMC 15.02.046 H: "Sidewalk cafe" means a portion of the public right-of-way in which tables and chairs are placed for the use of patrons consuming food and/or beverages, including alcoholic beverages, served by a food-service establishment (as defined in SMC 10.10.040) located on adjacent property.

From SMC 10.10.040 O: "Food-service establishment" means:

1. A place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs, including but not limited to:
 - a. Restaurants, snack bars, cafeterias, taverns, bars,
 - b. Retail food stores, supermarkets, retail meat markets, retail fish markets, retail bakeries, delicatessens,
 - c. Food services in schools and private higher education learning facilities,
 - d. Institutional operations licensed by Department of Health, such as hospitals, prisons, state-licensed higher education learning facilities, and child care facilities,
 - e. Central preparation sites, including caterers,
 - f. Satellite servicing locations,
 - g. Temporary food-service establishments and mobile food units,
 - h. Bed and breakfast operations,
 - i. Remote feeding sites, and
 - j. Vending machines dispensing potentially hazardous foods;
2. Except for the following:
 - a. Private homes where food is prepared or served for consumption by household members and/or their non-paying guests,
 - b. Establishments offering only commercially prepared and packaged non-potentially hazardous foods sold or given packaged for off-premises consumption or consumption without further preparation,
 - c. Commercial food-processing establishments, licensed and regulated by the USDA, FDA, or WSDA, and
 - d. Farmers exempt from licensure under RCW 36.71.090.

From SMC 15.02.042 C: "Areaway" means a space below the level of the sidewalk, covered or uncovered, affording room, access or light to a building. An "areaway" is sometimes called a "light well."

III. Permit Review and Approval

A. Application to SDOT

Applicants must complete the Street Use Non-Construction Permit Application, and provide the following information to SDOT:

- Three copies of a legible site plan including the following formation:
 - North arrow.
 - Name of adjoining street(s) or alley(s).
 - Width of adjacent sidewalk(s).
 - Location of existing improvement (e.g., utility poles, parking meters, bus shelters, sign posts, tree pits) showing distance of each from nearest edge of the sidewalk café area.

- Location of property lines and dimensions of sidewalk area proposed for café use.
 - Sidewalk width remaining for public path of travel.
 - Location and dimensions of any proposed improvements in the sidewalk area associated with the sidewalk café. **Note:** Improvements such as platforms, awnings, canopies, planters, bollards may require a separate permit.
 - Location of building exits and entrances.
 - Location and number of tables and chairs.
 - Fencing detail including materials, dimensions, and installation method.
- \$1,000,000 Liability Insurance with the City of Seattle as an additional policy holder. (For more information, see CAM 2102, *Certificate of Liability Insurance*.)
 - If in a Historic or Landmark District, a Certificate of Approval will need to be submitted prior to permit issuance.
- \$450 Field Review Fee.

B. Notice of Application - Comment and Appeal Period

When the complete application is submitted, SDOT will provide a notice form to the applicant. Applicant must post this notice of the sidewalk café permit application in a prominent place at the proposed location, clearly visible from the adjacent sidewalk. The notice must be posted for at least 14 days, and must remain posted for at least 10 days after the permit is issued. A Street Use Inspector will verify that the notice is posted during the application and installation time periods. Failure to post the notice, will delay the issuance of the sidewalk café permit. The notice will provide information on how to comment on the pending application and how to appeal an issued Street Use Permit. The notice will post the application date, comment period dates and proposed sidewalk café dimensions. SDOT will also publish the notice in DPD's Land Use Information Bulletin, which is published twice weekly on-line and is mailed to more than 200 community organizations citywide.

A sidewalk café permit decision may be appealed to the SDOT Director by filing an appeal request within 10 days of the date of permit decision (SMC 15.04.112). The appeal request must identify the decision for which review or reconsideration is requested, grounds for objecting to the decision based on City standards, and the specific remedy being proposed. The Director will designate a review officer, who will make a recommendation to the Director. The Director may, at his or her discretion, stay implementation of a decision pending review or reconsideration. The Director's decision on review or reconsideration will be final.

C. Review by Department of Planning and Development (DPD)

Sidewalk cafes will not require a change to the occupancy permit for the associated business provided the following standards are met:

1. The total area of the sidewalk café is less than 75 square feet; or
2. The total area of the sidewalk café is greater than 75 square feet and a legal exit path is provided directly to the street.

If the total area of a sidewalk café is greater than 75 square feet and the only legal exit path is through the food-service establishment, a review by DPD is required. If DPD's review determines that interior alterations are needed to provide sufficient exiting then a building permit application for the alterations permit may be required.

An additional DPD permit may be required if any portion of the sidewalk café is on private property. A Street Use sidewalk café permit will not be issued until all DPD permit requirements are met.

IV. Sidewalk Café Standards

These standards apply to all sidewalk cafés in the right-of-way. SDOT has the discretion to approve modifications to these standards or require conditions to the permit given specific site characteristics. The standards described in A and B below are depicted in Figure 1.

A. Clear Path of Pedestrian Travel.

1. A minimum clear path of travel of six feet is required on all sidewalks located within the Downtown Urban Center, as depicted in Figure 2. A minimum clear path of travel of five feet is required on all other sidewalks. The Director may require more than the minimum clear path of travel when needed to facilitate the public's use of the right-of-way. Examples of where the Director may require more than the minimum include but are not limited to areas with high peak-period pedestrian volumes or where more specific planning and analysis suggests a wider clear path of travel is necessary, areas where approved street design plans call for additional width, or areas with transit loading zones, public plazas, art installations, and access points where large volumes of pedestrians circulate. The clear path of travel is measured from the outside edge of the sidewalk café fencing or fence post base to the nearest obstruction (tree pit, parking meter, bike rack, planting strip, etc.). If no obstruction exists, the clear path of travel is measured to the back of curb. Sidewalk cafes may not encroach into tree pits. A-frame, portable signs or any other encroachment are not allowed in the pedestrian clear path of travel.
2. The pedestrian path of travel must be in good condition, with no broken pavement or irregular surfaces. The applicant of the sidewalk café permit may be required to repair broken pavement or irregular surfaces if identified by SDOT as part of the permit review process. An additional Street Use Construction permit must be obtained to perform any required repair work.
3. The pedestrian path of travel should generally be straight and not involve sharp or jagged turns that would impair pedestrian circulation.
4. A sidewalk café should generally not exceed half of the total sidewalk width. In cases where the sidewalk is adjacent to a park, a street closed to vehicular traffic for all or portions of the day (for example, Pike Place or portions of Occidental Ave. S.), or another area that provides space for pedestrian circulation, the Director may, in his or her sole discretion, allow the area of the sidewalk café to extend beyond half the total sidewalk width.

B. Setbacks. Setbacks are required from the following elements. These elements must be clearly identified on the required site plan in the application.

1. Five feet from alleys and bus, handicapped and commercial loading zones.
2. Five feet from pay stations, traffic signs, SDOT and utility poles, fire hydrants, bike racks, and other street fixtures in areas where curbside seating is approved.
3. Three feet from the front of curb for curbside seating areas.

4. Five feet from curb ramps, or the beginning of the corner curb radius where curb ramps do not exist.

C. *Building Exits.* A clear path of travel must be preserved from any building exit equal in width to the exit door. This path of travel must be free of obstructions and connect the building exit to the sidewalk.

D. *Exiting Requirements.* Sidewalk cafes will not require a change to the occupancy permit for the associated business provided the following standards are met:

1. The total area of the sidewalk café is less than 75 square feet; or the total area of the sidewalk café is greater than 75 square feet and a legal exit path can be provided directly to the street.
2. If the total area of a sidewalk café is greater than 75 square feet and the only legal exit path is through the establishment, a courtesy DPD review is required. If through the courtesy review DPD determines that interior alterations are needed to provide sufficient exiting then a building permit application for the alterations permit may be required.

E. *Fencing.* Fencing is required to delineate the sidewalk café from the pedestrian path of travel. The following design standards apply:

1. Fencing should be between 30 and 42 inches in height. Fencing must be 42 inches in height if required by the State Liquor Control Board.
2. Fencing must be detectable by cane to warn visually impaired persons of potential hazards in the path of travel. Fencing must include one or more of the following detectable elements:
 - a. a toe rail with its top edge at 6 inches minimum in height and its bottom edge no higher than 1-1/2 inches above the adjacent surface is provided;
 - b. fencing, landscaping, or other elements detectable by cane spaced no more than 17 inches vertically and no more than 24 inches horizontally; or
 - c. elements sufficiently detectable to warn visually impaired persons of potential hazards in the path of travel.

Ropes or chains with free-standing bases may be used provided they meet the above standards.

3. Fencing must be temporary in nature.
4. Fence posts may be attached to the sidewalk with bolts or utilize free-standing bases. When bolted fencing is removed, the bolts must be removed from the sidewalk and the holes filled and sidewalk restored to original or better condition.
5. Fencing must be generally transparent. Solid sheet fencing surfaces are not permitted.
6. Fencing should be constructed with a railing, rope or other horizontal element; posts with pointed tops are not permitted.
7. Fencing must be constructed of high-quality finish materials (such as steel, glass or finish woods). Plastic and/or raw or pressure-treated lumber is not allowed. Landscaped planters may be used in-lieu of fencing.
8. All seating and tables must be movable to accommodate wheelchair access.

F. *Seating Platforms.* Seating platforms are discouraged and not included in the sidewalk café permit. Where necessary due to topography, a separate street use permit for a structural encroachment for a seating platform may be required. Seating platforms must be temporary in nature and removable with no lasting damage to the sidewalk. The following design standards apply:

1. Seating platforms may generally not be more than 18 inches above sidewalk grade. Additional height may be allowed depending on site characteristics and will require

additional DPD review and/or permit. Seating platforms should not be higher than what is required to level the site.

2. Seating platforms must be wheelchair accessible as required by Americans with Disabilities Act (ADA), and must provide a fixed railing and other safety measures in accordance with Seattle Building Code (SBC) Section 1607.7 and ANSI 117.1.
3. All seating and tables must be movable to accommodate wheelchair access.
4. All visible portions of the platform and its railing and footings should be detailed with high-quality finish materials (such as steel, glass or finish woods).
5. Street use permit applications for seating platforms are required to have the following:
 - i. A plan stamped by a registered design professional (engineer or architect). The stamp will confirm that the platform conforms to Seattle Building Code (SBC), Chapter 11, Accessibility, and other applicable regulations including, but not limited to, SBC Section 1607.7 and International Code Council A117.1.
 - ii. If the proposed platform is over an areaway, an additional structural analysis by a professional engineer of the load capacity of the sidewalk and areaway must be submitted.
 - iii. An indemnity agreement pursuant to SMC 15.16.070 signed and notarized by the property owner and recorded with King County Records.

G. *Landscaping.* Where seating platforms are used, potted plants, planter boxes or other landscaping is required at either end to delineate it from the rest of the sidewalk. Landscaping may be no higher than 42 inches and may not encroach on the clear path of travel required in subsection 1 of this Rule.

H. *Heating Elements and Overhead Weather Protection.* Heating elements and free-standing umbrellas are allowed within the footprint of the permitted café area and may not encroach on the clear path of travel required in subsection 1 of this Rule. Heating elements must be of a type permitted by the Seattle Fire Marshall. Umbrellas when opened may encroach on the clear path of travel provided they are more than 8 feet above sidewalk grade.

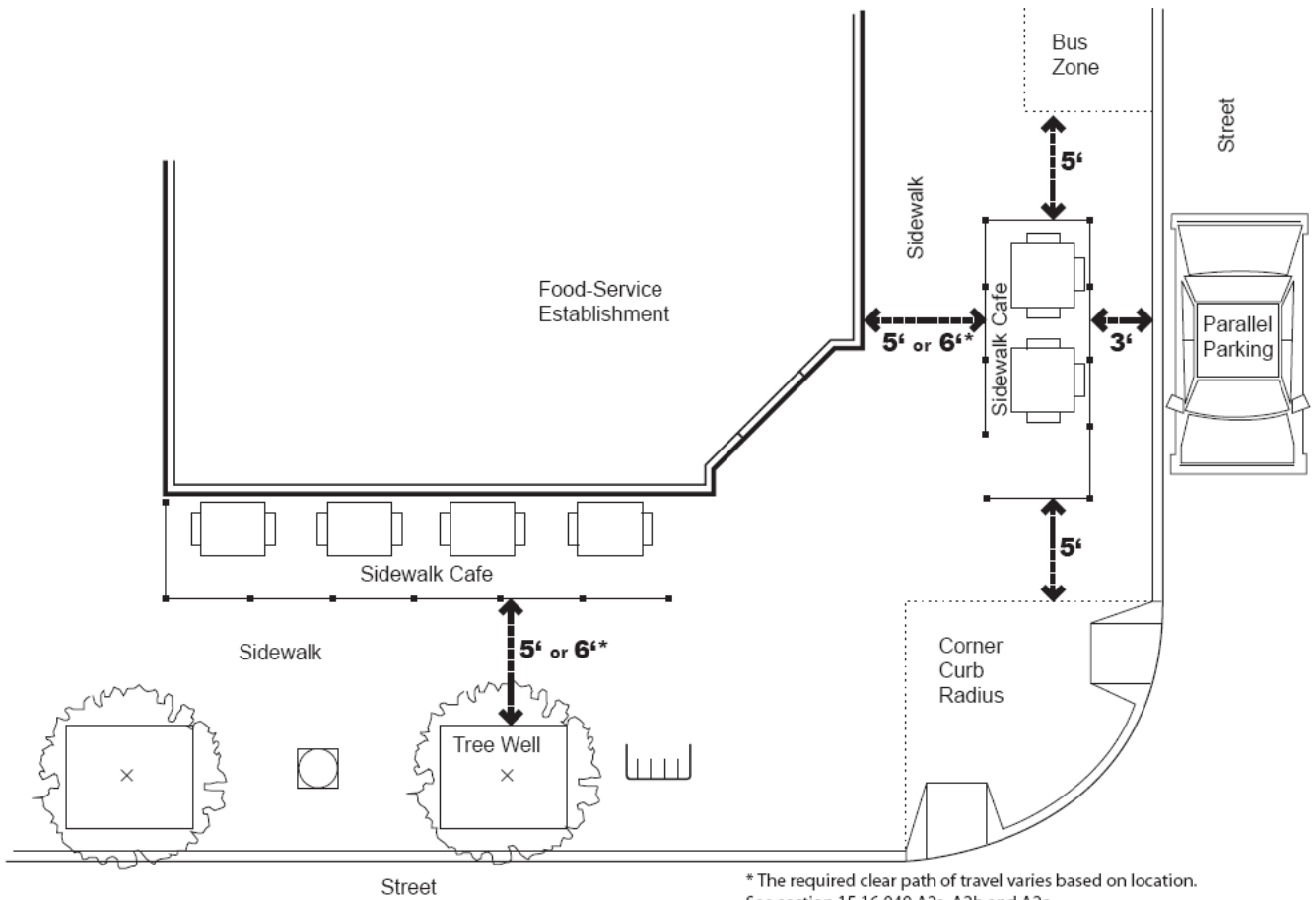
I. *Curbside Seating Areas.* Sidewalk café seating is allowed adjacent to the curb where on-street parking is present, subject to the setbacks described in (2) above. For curbside seating areas, umbrellas and other vertical obstructions above a height of 42 inches are not allowed within 25 feet of a stop sign. Electrical cords or string of lights may not be strung over or be placed on the pedestrian path of travel described in subsection 1 of this Rule. Curbside seating is not allowed when on-street parking is not present. Liquor Control laws apply.

J. *Amplified Sound.* Amplified sound is not allowed.

K. *Hours of Operation.* Sidewalk cafes may operate during general business hours.

L. *Prohibited Uses.* The sidewalk café area may not be used for any use other than food and beverage service associated with the adjoining business. Outdoor storage or other uses are strictly prohibited.

Figure 1: Required Clear Path of Travel and Setback from Obstructions for Sidewalk Cafes



* The required clear path of travel varies based on location. See section 15.16.040 A2a, A2b and A2c.

Figure 2: Downtown Urban Center

