

Memorandum



CITY OF DALLAS

DATE July 31, 2015

TO Honorable Mayor and Members of the City Council

SUBJECT **Sidewalk Cafés and Streetscape**

On Wednesday, August 5, 2015, the City Council will be briefed on the Sidewalk Cafés and Streetscape. The briefing materials are attached for your review.

If you have any questions, please let me know.

A handwritten signature in black ink, appearing to read 'Ry - S. E'.

Ryan S. Evans
First Assistant City Manager

C: A.C. Gonzalez, City Manager
Warren M.S. Ernst, City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

Sidewalk Cafés and Streetscape

City Council Briefing
August 5, 2015



Purpose

- Follow-up to previous discussions for using public right-of-way
- Present Alternative Process and Fee Proposal (Policy change)
 - Reduced Fee Ordinance
 - Implementation of Permit Process
- Identify next steps

Background

- March 2004, City Council approved a 5yr pilot program (April 1, 2004 to December 31, 2009)
 - Established one-time fees (instead of annual fees) of \$1,000 for landscaping improvements, awnings, and subdivision signs/monuments
 - Established reduced fees for sidewalk cafés - formula determination based on square feet and assessed value, up to a maximum of \$2,500 and not less than \$1,000 (annual fee)
- December 2009, City Council authorized the extension of the pilot program indefinitely

Background

- June 2013 - Quality of Life Committee briefed on reducing License fees for streetscape elements
 - Current license fees considered a barrier by some potential users
 - Downtown and other entertainment area entrepreneurs are seeking to encourage street life
 - Enclaves of restaurants and shops spurring revitalization of urban neighborhoods

Background

- November 2013 - Quality of Life Committee requested staff to move forward with reduced fee proposal:
 - \$250 One-Time Fee per Streetscape element
 - Sidewalk Café sliding scale (Annual Fee)
 - \$300 – Max. 3 Tables and 6 Chairs
 - \$600 – Max. 6 Tables and 12 Chairs
 - \$1,000 – 7 + Tables and 13 + Chairs

Background

- Reduced Fee Ordinance placed on the January 22, 2014 agenda for Council consideration
 - City Council requested Economic Development Committee be briefed
- Economic Development Committee briefed April 21, 2014
 - Committee requested staff to reduce fees further and to determine a more efficient way to use public right-of-way for sidewalk café's and streetscape elements


Why Accommodate Use of Right-of-Way?



There is no better catalyst for economic development than the creation of a “place” highly valued by the community. Streets with historic social, cultural, and public gathering functions add tangible value.

McKinney Avenue,

Compliments Complete Streets Vision



In most metropolitan areas, every one-point increase in the 100-point Walk Score scale is associated with an increase in home value of \$500 - \$3,000

Why Accommodate Use of Right-of-Way?

- Street Character Defines A Place
- Active Streets
- Adds to Urban Experience
- Creating pedestrian friendly environments
- Encourage increased use of street amenities
- Encourage economic development
- Encourages more interaction between citizens and enhances community

Examples



Existing Sidewalk Cafés

- Sidewalk cafés generally located in the following areas:
 - Bishop Arts, Deep Ellum, Downtown, Greenville Avenue, Uptown, West End
- There are currently 42 sidewalk cafés licensed in the public right-of-way
- The vast majority of outside seating areas are located on private property.

Why Licenses Are Required

- State statute (Texas Transportation Code Section 316.001 et seq) provides that:
 - Governing body of city may permit use of ROW
 - For decorative landscaping, sidewalk cafés, ornamental features and street amenities (like benches, water fountains, bus shelters, planters)
 - To abutting owner of underlying fee title or tenant with permission to use

Why Licenses Are Required

- Dallas City Charter and Article VI, Chapter 43 of the Code require license for private use of right-of-way:
 - Be granted by Council ordinance
 - To abutting property owners
 - Not be inconsistent with or unreasonably impair public use
 - City retaining right to terminate as necessary

Why Licenses Are Required

- Enables staff to perform due diligence required by State and City statutes and address any public safety concerns
 - Confirms grant to appropriate party
 - Location and coordination with other uses in ROW (especially utilities)
 - Insurance protection of public & City
 - Indemnification and defense of City
 - Confirm no hazards, interference, obstructions, etc.
 - Removal from and restoration of ROW upon termination

Current Process

(Cost Recovery Model)

- Applicant submits request along with:
 - \$750 non-refundable application fee
 - Fee credited to first year license fee
 - Field notes describing licensed area and drawings showing proposed use
 - Deed showing ownership, or tenant lease
 - Written concurrence of abutting owners

Current Process

- City routes request to departments and outside agencies / utilities for review and approval
 - Any concerns must be addressed by applicant
 - If concerns cannot be resolved, license does not progress
- License fee determined through formula based on assessed value or one-time fee
- Commercial General Liability Insurance required
- Request submitted to City Council for authorization by ordinance

Why Fees are Charged

- Texas Constitution prohibits gifts of public funds exclusively for private benefit
 - There must be a definite public benefit to City articulated
- Recover costs associated with processing and reviewing license requests

Three Fee Approaches

- Market-Based – past model
 - Until 2004, calculation based on assessed value
 - State law allows municipalities to receive market value
- Cost-Recovery – current model
 - In 2009, reduced fees based on pilot program
- Public Subsidy – model under further consideration
 - Encourage public amenities and Complete Street goals while meeting regulatory requirements

Alternative Process and Fee Proposal

- Option #1
 - Amend current process and reduce fees
 - Application fee - \$100 (vs. \$750)
 - Fee not credited to first year license fee (vs credited to first year)
 - Sidewalk café (annual) fee - \$200 (vs. formula determination based on square feet and assessed value, up to a maximum of \$2,500, not less than \$1,000)
 - Streetscape One-time license fee - \$100 (vs. \$1,000) ex. Landscaping and appurtenant irrigation systems, Monument Sign, Subdivision Sign, Awning/Canopy w/out premise sign

Alternative Process and Fee Proposal

- Option #1, cont'd
 - Measured drawings of area required - distances and clearances defined (vs Metes and Bounds Description)
 - Commercial General Liability Insurance required
 - Request submitted to City Council for authorization by ordinance

Alternative Process and Fee Proposal

- Option #2
 - Requires grant of a revocable, non-exclusive license to all abutting owners or tenants for use of public right-of-way for certain streetscape elements and sidewalk café's
 - the license, while granted, could not be used without a validly issued permit
 - Implement a permit process with reduced fees
 - Permit subject to all ordinances, rules, and regulations of the City

Alternative Process and Fee Proposal

- Option #2, Cont'd
 - Cash or surety bond required (sufficient to remove improvements and restore sidewalk/right-of-way)
 - Sidewalk café bond amount:
 - \$5,000—If no bolts are secured in the right-of-way
 - Cost of Bond (1%-15% or \$50-\$750)
 - \$10,000 - If a single bolt per corner is secured in the right-of-way
 - Cost of Bond (1%-15% or \$100-\$1,500)
 - Other Streetscape Bond Amount:
 - \$2,500 per element
 - Cost of Bond (1%-15% or \$25-\$375)

Alternative Process and Fee Proposal

- Option #2, Cont'd
 - Measured Drawings of area required (distances and clearances defined)
 - Commercial General Liability Insurance required
 - Permit Fees
 - \$100-Application review fee (non-refundable)
 - \$200-Sidewalk Café Fee (annual fee)
 - \$100-One-Time Fee per streetscape element
ex. Landscaping and appurtenant irrigation systems,
Monument Sign, Subdivision Sign, Awning/Canopy w/out
premise sign
 - Permit issued administratively

Budget Implications

Assuming 25% Increase in Applications

- Reduced fees with 25% increase in applications have potential to result in:
 - Revenue reduction
 - Current streetscape revenue: \$315,000
 - Potential revenue with reduced fees: \$175,000
 - Reduction in annual revenue of \$140,000
 - Increased workload
 - May have staffing and associated cost implications to the General Fund in addition to any lost revenue

Next Steps

- Chapter 43 Amendment (October 2015)
 - Option #1
 - Reduced Fee Ordinance required
 - Option # 2
 - Provide for a revocable, non-exclusive license granted to all owners abutting right-of-way or tenants (of said owner, with consent) in the City authorizing certain uses of abutting right-of-way.
 - Permit for use required (subject to all ordinances, rules, and regulations of the City)
 - Provide for a permit process with reduced fees
- Council may choose to leave fees as is

Next Steps

- Adopt Sidewalk Café Design Standards
 - Ensure accessibility and conformance with ADA
 - Ensure adequate sidewalk clearance for pedestrian traffic volumes at a particular location
 - Minimize conflicts with other uses of the right-of-way (i.e. bus shelters)
 - Ensure design that enhances streetscape
 - Ensure durability of proposed improvements

Next Steps

Sidewalk Café Design Standards

LAYOUT AND DESIGN

- 1 Placement of cafe seating, enclosure and other amenities must continue to provide a minimum unobstructed sidewalk width of 5 feet or as specified in applicable zoning, whichever is greater.
- 2 The pedestrian path of travel provided by the cafe must be straight and not require turns that impair pedestrian circulation on the sidewalk, nor create a trip hazard.
- 3 Placement of furnishings or other separation devices or amenities must comply with visibility triangle requirements, must not obstruct barrier free ramps at intersections, nor impair stormwater drainage.
- 4 Table and other furnishings must maintain a minimum setback from the back of curb of 18 inches, except when on-street parallel parking is present, then minimum setback from the back of curb is 3 feet.
- 5 Umbrellas may not extend over vehicular travel ways or parking, and must maintain a minimum vertical clearance of 7 feet over pedestrian travel way.
- 6 Cafe furnishings and enclosures may not obstruct emergency egress from building.



Next Steps

Sidewalk Café Design Standards

MATERIALS AND CONSTRUCTION

- 1 Fencing may not exceed 36 inches in height and must be constructed of durable finish materials [metal, glass, finished wood, removable stone or concrete planters].
- 2 Chain and bollard fencing is prohibited as it poses a hazard to visually impaired pedestrians. Fencing must be detectable by cane through one or more of the following: toe rail with top edge 6-inch minimum in height and bottom edge no higher than 1.5 inches above sidewalk; landscaping or other elements detectable by cane spaced no more than 27 inches vertically and 24 inches horizontally, or elements sufficiently detectable by cane.
- 3 Tables, chairs, plantings and other furnishings must be removable. Upon removal of sidewalk cafes and furnishings, sidewalk must be returned to original or better conditions.



Questions????

Appendix

■ Sidewalk Café Fees in other Cities

City	Review Fee	Annual
Seattle	\$516.00	\$146.00 plus \$1.56/sqft
Portland	\$175.00 plus \$5.50/linear ft	\$85.00 plus \$2.75/linear ft
San Antonio	\$100.00	<250 sqft = \$250.00 250 sqft - 500 sqft = \$500.00 >500 sqft= \$750.00
Denver	\$150.00	\$100.00
Austin	\$100.00	\$200.00