MEMORANDUM

To: Urban Services Committee

From: Ken Gibb, Community Development Director

Date: June 11, 2007

Subject: Sidewalk Café Permit Process

Introduction

The purpose of this memo is to transmit additional information as requested by the committee during the two public work sessions and to suggest main topics for deliberation.

Discussion

As of the date of this memo, all written comments submitted to staff (besides the online survey) have previously been forwarded to the committee for consideration. In addition, the following information is included as requested by the Committee:

- Attachment 1 Online Sidewalk Café Opinion Survey - Summary of results compiled by Community Development Intern, Justin Fuller.
- Attachment 2 Excerpts from the ADA & ABA Guidelines.
- Attachment 3 Jurisdictional Survey Results, Addendum 1 - Question regarding open containers and sidewalk café fencing.
- Attachment 4 May 25, 2007 - Email correspondence from OLCC Inspector Michael Fetterley, regarding sidewalk cafes and liquor licences.
- Attachment 5 May 29, 2007 - Memorandum from Corvallis Police Department regarding sidewalk café fencing.
- Attachment 6 May 30, 2007 - Memorandum from Corvallis City Attorney's Office regarding smoking within cafe's.
- Attachment 7 June 11, 2007 - Memorandum from Corvallis Finance Department regarding fees for sidewalk café permits.

A list of potential deliberation topics is identified as follows:

- Defining the issues
  1) Sidewalk Cafe's - Yes or No?
  2) Café Delineation - Yes or No?
  3) Standards for Delineation
     - Identify types such as fences, planters, lines, etc
     - Staff to pursue recommendations for standardization/codes?
     - Movable vs permanent
  4) Clearances - ADA & ABA vs Community Desires
  5) Café Size - Equal ADA access within cafe's
  6) Serving Alcohol - Hours and other issues
  7) Smoking
  8) Permit Fees - Methodology
  9) Liability & Insurance
  10) Committee members may have additional topics

- Review of current code - Preliminary committee recommendations to staff for development of potential code changes.

- Schedule - Staff to consider committee direction and develop code modification options for committee review by time frame to be determined.

Recommendation

Staff suggests the committee review the testimony and information provided to date, outline the main topics for deliberation and discuss. Staff recommends the committee consider the original request of Council to review the permit process and standards for sidewalk cafes, rather than broaden the focus to other general right-of-way clearance issues such as sandwich board signs, planter boxes, bike racks, or other issues outside the original scope. It is suggested that the committee may choose to identify these other issues and pursue at a later date.

Review and Concur:

Jon S. Nelson, City Manager

Introduction:

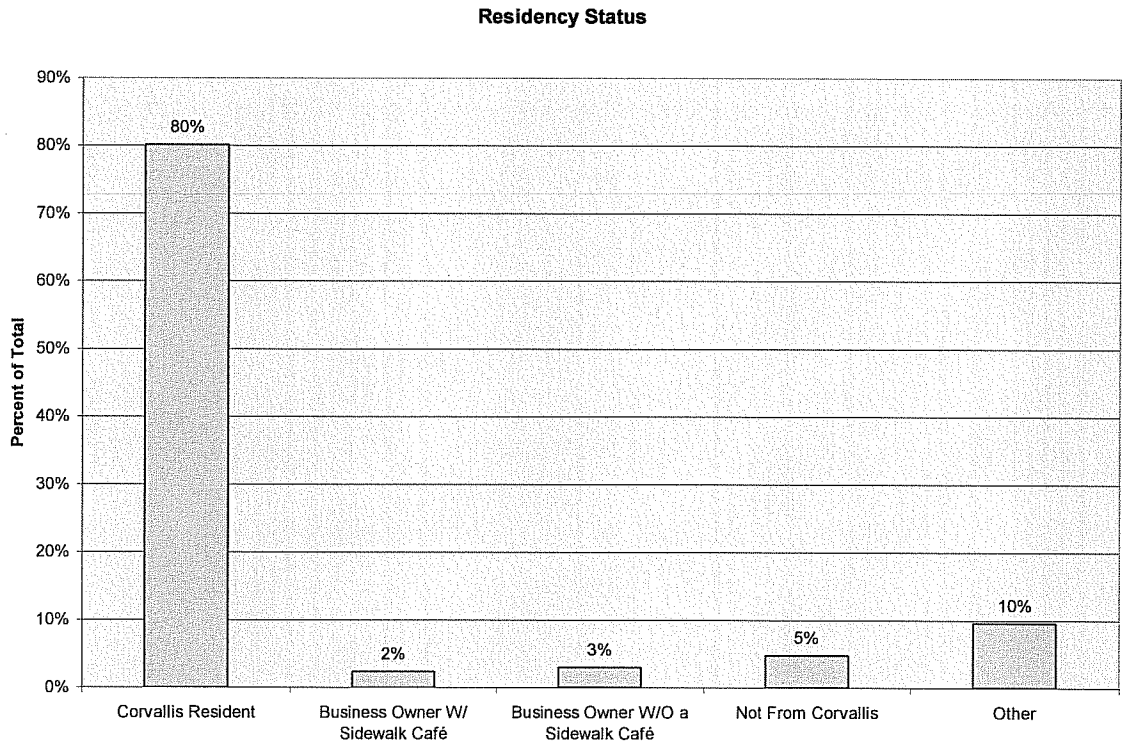
This survey was designed to help inform the City of Corvallis on the preferences of its citizens for sidewalk café policies. The survey covers residency status, distance requirements from café fixtures to the curb and from café fixtures to street fixtures, three different aspects of alcohol service requirements, and open ended questions designed to solicit citizen input on what they like and would like to see improved about sidewalk cafes. There are a total of 5 close-ended questions and 5 open-ended questions. The survey was open from April 11, 2007 until June 1, 2007. A total of 167 individuals participated. Individuals self-selected to participate in the survey so results are not indicative of the preferences of Corvallis as a whole.

This document is organized in the following manner. For each of the five close-ended questions a bar chart of the frequencies of each choice is provided along with a brief narrative summary of that chart. After the discussion of the close-ended questions, summary statistics are provided that shows the range, mean, and median values for the distance requirements that respondents felt should exist between café fixtures and the curb and street fixtures, again, a brief narrative is included. After the summary statistics is a full list of citizen likes, possible improvements, and other comments. Finally, a copy of the survey is included.

Residency Status:

1. How would you describe yourself?

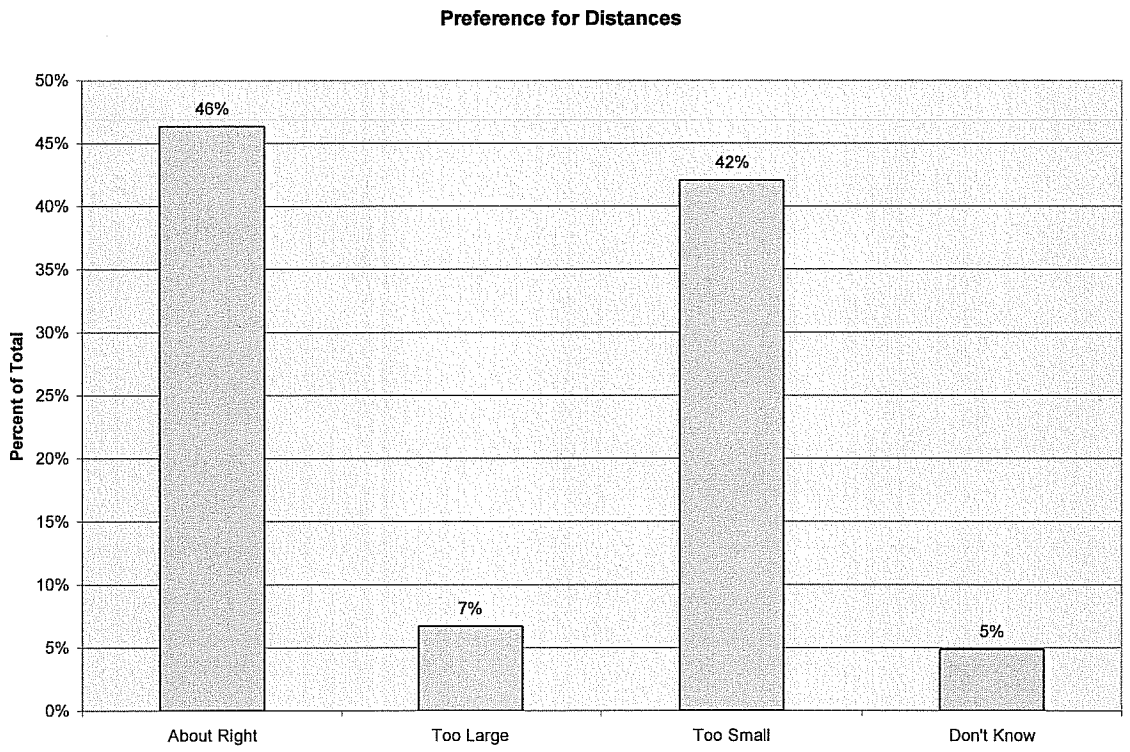
The vast majority of individuals, 80%, are citizens of Corvallis. 2% and 3% of respondents are business owners with a sidewalk café and business owners without a sidewalk café, respectively. 5% of respondents indicated that they are not from Corvallis. The majority of these individuals live outside the city limits but within Benton County (the results forth the 'please specify' portion of the 'other' response is located with the other open-ended questions after the summary statistics for citizen distance preferences).



Preferences for Distance Requirements:

2. Corvallis municipal code requires a minimum distance of 6 feet between cafe fixtures (including fences) and the curb and a distance of 3 feet between cafe fixtures and street fixtures such as bike racks or lamp posts for pedestrian use. Do you consider these distances to be...

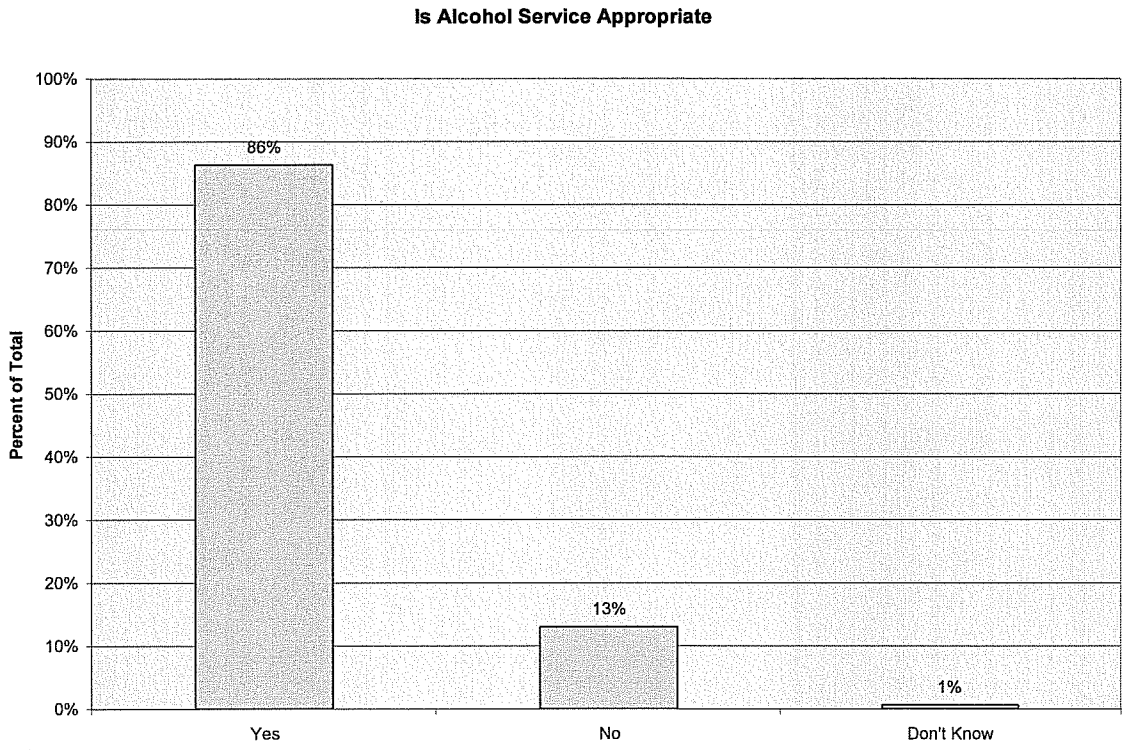
Citizen preferences for distance requirements between café fixtures and the street curb and street fixtures is roughly split between those who think that the distances are too small, 42% of respondents, and those who feel the distance is about right, 46% of the respondents. A minority, 7% believe that the distances are too large. 5% don't know whether they think the distances are too small or large or about right.



Preference for General Alcohol Service in Sidewalk Cafes:

3. Corvallis allows the consumption of alcohol within the permit area of sidewalk cafes. Do you find alcohol service to be appropriate at the sidewalk cafes?

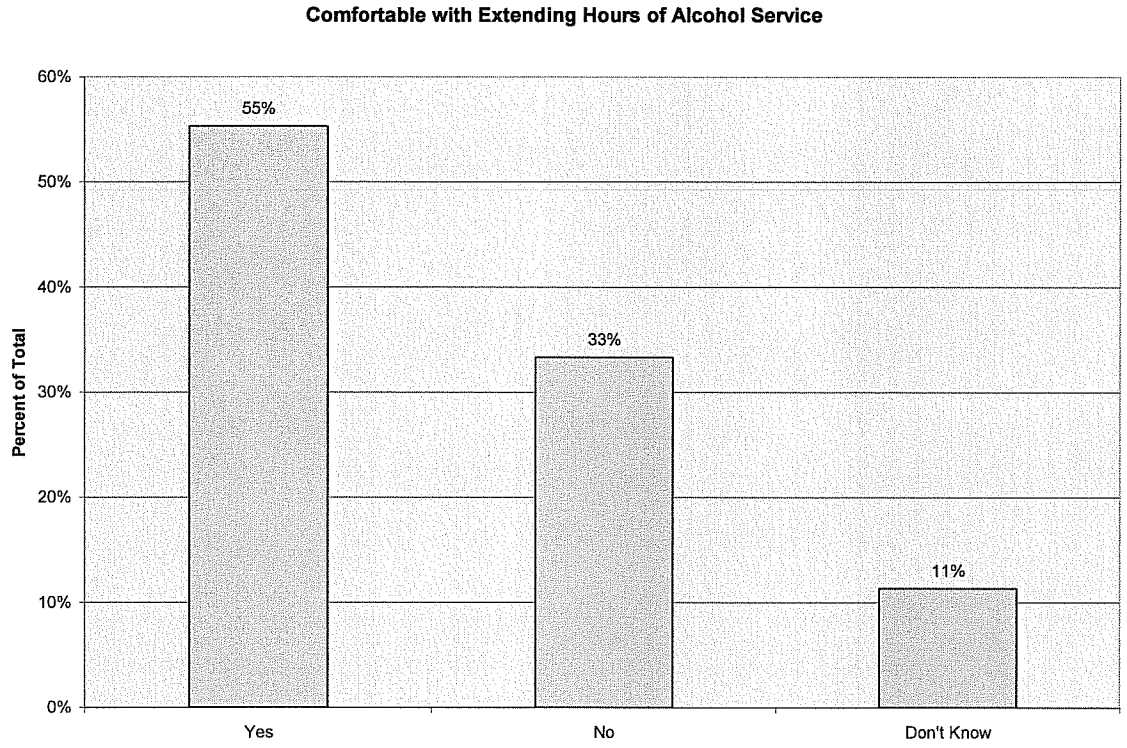
Respondents believe that alcohol service is appropriate in sidewalk cafes with current regulations 86% to 13% with only 1% not knowing how they feel. However, the following charts which describe residents' feelings about removing either the fencing or time limitations are not so one-sided.



Comfort with Extending the Hours of Alcohol Service:

4. Corvallis prohibits sidewalk cafes from serving alcohol after 11 p.m. Would you be comfortable if sidewalk cafes were allowed to serve alcohol after 11 p.m.?

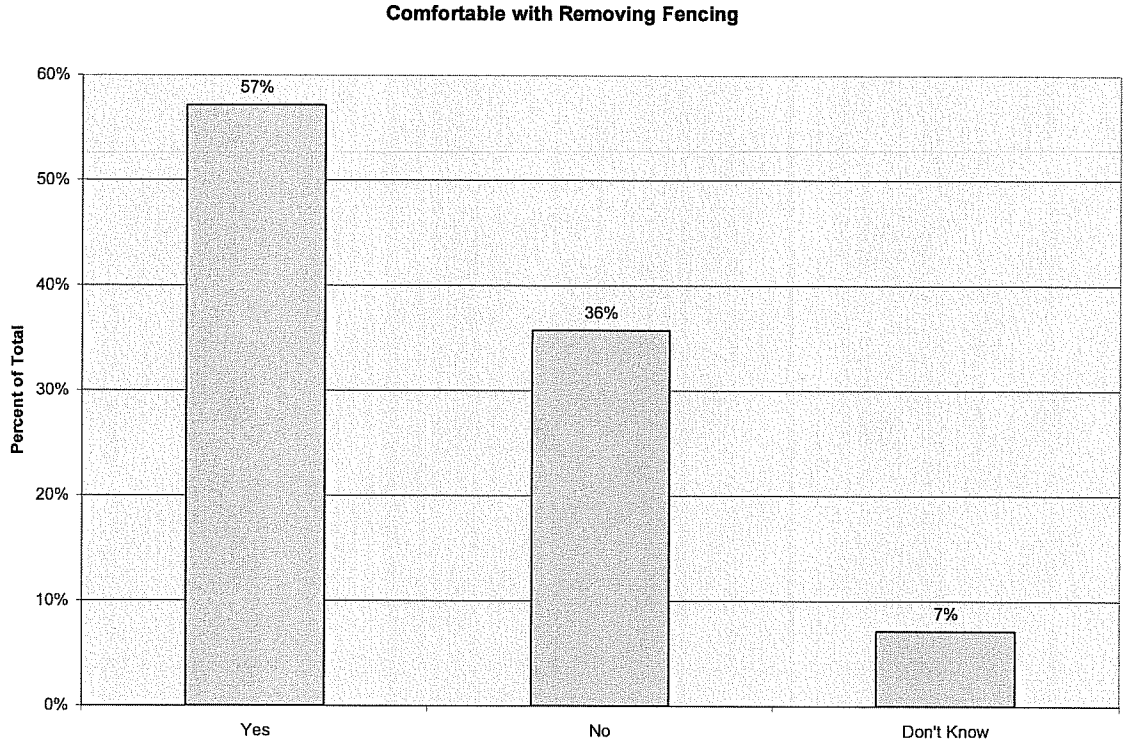
Whereas 80% of respondents felt comfortable with current service of alcohol in sidewalk cafes, only 55% would be comfortable with extending the hours of alcohol service past 11 P.M. And while only 13% of respondents felt that alcohol service is inappropriate at sidewalk cafés, 33% would be uncomfortable extending the hours of service. There is also greater uncertainty among respondents with 11% not knowing how they felt.



Comfort with Removing Fences:

5. Another requirement for cafes to serve alcohol is that they need to place a fence 36-48 inches tall around the service area. Would you be comfortable with continuing alcohol service if the fencing requirement was removed?

Respondents had stronger opinions about the possibility of removing fences. About half as many respondents (13% versus 7%) indicated they didn't know how they felt about removing the fencing requirement versus extending hours of service. This is reflected in increases in both the percentage of individuals who felt comfortable with the possibility and those who were uncomfortable about such a possibility (57% and 36% respectively).



Summary Statistics for Distance Preferences:

6 & 7. How large would you like to see these distance requirements be? Remember, current code requires 6 feet to the curb and 3 feet to any street fixtures. [Note: On the online survey there was an individual question for each of the distances.]

The following table presents the summary results for the open-ended questions on how much space each respondent felt should be required between sidewalk café fixtures and the curb and between café fixtures and street fixtures. Due to computational difficulties non-numeric responses such as, "100% of the sidewalk", or, "the minimum required for easy mobility" were excluded. Also, when a range was indicated, such as, "3-4 feet", the smallest value was chosen, in this example, 3 feet.

	Mean	Median	Minimum	Maximum
Distance to Curb	6.15 Feet	7 Feet	3 Feet	12 Feet
Distance to Fixtures	4.85 Feet	6 Feet	1.5 Feet	12 Feet

Open-Ended Likes:

8. Please describe below what you like about sidewalk cafes in Corvallis.

1.	Brings people outside and creates a positive atmosphere for interaction.
2.	dining outside is very pleasant during the warmer months
3.	They encourage more people to shop and dine in nice weather. It's a enjoyable activity that adds spice to the local scene.
4.	Seeing families enjoying the sun.
5.	Chance to sit in the sun and enjoy a beautiful day.
6.	I feel that they add a nice ambiance to the downtown area, especially considering the pedestrian friendly environment. They are obviously especially nice during the warm summer nights. On several occassions my wife and I have been walking downtown and run into friends sitting at the outside cafes.
7.	On a nice day of sunshine it is great to be able to dine outside!!
8.	Soaking up the rays on a nice day and watching the world go by.
9.	Adds to the ambience - and interest ot the area.
10.	The opportunity to be outside.
11.	I like sidewalk cafes that do not have fences. Just a few tables with chairs is OK, but cramming in too many tables on the public sidewalk impedes pedestrian traffic, especially to those individuals who use mobility devices like wheelchairs and walkers. Baby strollers, and elderly as well.
12.	The village feel and summer fresh air.
13.	I think the concept and atmosphere of sidewalk cafes are nice -- prmotes a friendly relaxed atmosphere.
14.	They add color & a great feel to the town, allow smokers a pleasant place to be, increase seating capacity and business for owners, provide interaction between patrons and pedestrians.
15.	They are very nice to use in the summer time, though the tables are out in the times of the year when it is too cold or rainy to use them.
16.	They are asthetically pleasing.
17.	Sidewalk cafes add a great, casual connection between the interior restaurant space and the outdoors. Dining outdoors allows for unique experiences while enjoying the warm summer and early fall weather. Corvallis will never be Paris (thankfully) but sidewalk cafes add quality to the overall atmosphere of downtown Corvallis.
18.	They are ok if they dont block the poeole try to walk down the street,
19.	Friendly people. Inviting atmosphere.
20.	I believe since sidewalks are public property, they should be used as open sidewalks and not as additional area to do buisness.
21.	The permit more casual outdoor dining which is fabulous in the sumer-time; festive atmmosphere. I love it!
22.	I LIKE THE IDEA OF SIDEWALK CAFES BUT IN SOME CASES THEY DO TAKE UP TOO MUCH OF THE SIDEWALK AREA... IT'S NICE TO SEE PEOPLE ENJOYING EATING OUT OF DOORS!!!!
23.	It is nice to see the people relax, laugh, and smile. I see people drink coffee

	and eating too. I don't drink alcohol, but I don't care if others do, if they don't raise heck.
24.	When the weather is sunny and warm there's nothing better than eating outside and we always ask to be seated outside whenever it's available. We will go to a sidewalk cafe just to be outside when the weather's nice.
25.	I enjoy sitting outside in the fresh air and eating or drinking.
26.	Being able to dine outside.
27.	everything
28.	Nothing, they're a bad idea. This is not Paris. They would be O.K. if the streets and sidewalks were designed with them in mind, but nobody ever thought outdoor dining would be popular in Western Oregon, so they didn't spend the money to design for it. Thus, a lack of foresight by businesses should not become the burden of the citizens, and the public should not now be forced to give up our sidewalks to millionaire restaurant owners who suddenly want to be like Europe.
29.	they bring vibrance and life to our down town
30.	Gives the city a comfortable, relaxing feeling.
31.	Simply, it's a pleasure to sit out side and enjoy a beverage or meal. This is especially true in our rainy climate. It also gives a 'homey' feel. Having visited many countries in Europe, the sidewalk cafes were a favorite with me.
32.	They greatly enhance the ambience of the downtown, and encourages patrons to linger, enhancing the viability of other businesses as well as the cafe owner.
33.	We dine at McMenamins (downtown) and Francesco's as far as sidewalk cafes go. In good weather, it's a pleasure to enjoy a meal or coffee outside. Very relaxing. Well, provided you're not stuck next to a cell phone user. :^)
34.	I like to sit in sidewalk cafes and people watch. I think that cafes are good for the vitality of a city.
35.	Adds some "life" to downtown
36.	promotes community gets people outside gives people the opportunity to enjoy the weather while enjoying their food and drink
37.	Atmosphere is nice.
38.	THey are kept "up to code". To many times I see no code being enforced elsewhere
39.	I think it is great to sit outside on a nice day and enjoy Corvallis.
40.	They remind me of urban social life in Europe. They encourage people to gather and socialize at downtown (and other) cafes, people watch, greet friends, and in general enjoy the community. We need to do everything we can to encourage community life.
41.	Fun atmosphere, safe walking around, small town feeling
42.	I like the ambiance it gives to our downtown area. I also think that it adds to the feeling of a vibrant downtown.
43.	being able to sit outside and eat/drink/visit
44.	Enjoy warm summer evenings; meet people walking by on sidewalk; social aspect; dining in the outdoors.
45.	Good place to enjoy the weather while eating, though businesses should address this within their own footprint, like Big River with their deck space.

46.	Nice place to sit on nice days. Pedestrian friendly ambience. Gives downtown a vibrant, busy feel.
47.	Paris! Bistros, ambience..The ability to gather with friends and people watch while enjoying a beverage when the weather is nice, which by Corvallis location is limited by weather. I think it adds to the draw to revitalize our downtown.
48.	They allow customers to enjoy your product in the ambience of the outdoors.
49.	They make the downtown area feel more alive, more social. They bridge the gap between pedestrians and restaurant patrons, helping to knit together a feeling of community.
50.	Corvallis is beautiful city. It's nice to enjoy a meal at the same time enjoy the ambiance of the out of doors.
51.	They allow for a lively street ambience and offer a pleasent alternative for folks to enjoy restaurant services. People appreciate the warm sun and fresh air they obtain outside (we enforce non smoking). Its fun and friendly. It makes the street more inviting and in most cases more attractive.
52.	I love being able to sit outside on sunny days. Whether I am eating a meal or enjoying a beer, getting to sit outside always makes it better. In fact, on nice days, I will only go to cafes that have outside seating. I wish we had more cafes in town with outdoor seating.
53.	being outside in nice weather
54.	it's nice to be outside on those rare sunny days, and warm summer nights as well.
55.	Sidewalk Cafes enhance the community feel, especially in a downtown district.
56.	Corvallis is a beautiful city with wonderful weather most of the year. Being able to sit outside and enjoy a meal or coffee or pint of local beer adds urbanity and sophistication to our little burg. It makes the downtown inviting to passersby as if the sidewalk is an extension of our living rooms. (Full disclosure: I own a cafe with sidewalk tables and my customers love having them).
57.	One thing I have notice in most of Europe is that sidewalk cafes offer both individuals and family units a healthful outdoor place to meet and share these spaces together as groups. Students and retirees, residents who are not neighbors have a place to get to know each other. Children can be included. Outdoor cafes always make for a more vibrant city center.
58.	Sidewalk cafes are great! They are inviting to the downtown and campus business areas. They promote enjoying the fresh air outside while socializing or dining. They simply make Corvallis a better community for gathering with friends.
59.	Outdoor atmosphere, community feeling
60.	Gets people outside. Brings vitality to city. Fosters enjoyment of our wonderful climate. Brings people of diverse backgrounds together.
61.	I think they add to the appeal of lingering downtown. Many patrons of the downtown core would stop and have a drink or sandwich at the outside seating. If it were not available, they may be tempted to walk on by. It gives a sense of relaxation, a non hurried attitude in a hurried world.

62.	great to eat at in the summer and relax.
63.	makes it feel like more of a community - good culture/accessible food. It's great to be able to go outside to eat.
64.	I like to get the fresh air while I eat or drink. Although I am not a smoker I think it is a good place for smokers to have a comfortable area to smoke where they are not bothering others.
65.	Sunshine and being able to make eye contact with people when walking by
66.	Fun place to eat or drink in the summer. Makes Corvallis seem mre cosmopolitan.
67.	the fact that you can enjoy the nice weather while dining, also it seems friendlier to see folks enjoying themselves at these cafes. (it also seems to add a "European type flair" to the town.)
68.	I like them if they are well maintained and monitored. Pleasant surroundings. Adds to the ambience of the area.
69.	they increase the street like and attraction of downtown corvallis
70.	its lovely to be able to sit outside in the summer
71.	Sidewalk cafes add to a welcoming open atmospher. It certainly adds a relaxed feel to the water front area, which is why people gravatate to that area.
72.	THERE IS NOTHING TO LIKE. THEY ARE A NUSIANCE.
73.	Being able to eat outside
74.	Can eat/visit outside if weather is nice
75.	People enjoy watching other people and this allows for that. They create more of a sense of connection between the establishment and the flow of people outside. they allow businesses to expand their space in a cost effective way.
76.	Encourages outdoor socilization, and helps people relax. Great way to enjoy Oregon weather in the good months.
77.	Nothing
78.	Sidewalk cafes provide a welcoming venue for restaurants/cafes, and for strollers, shoppers and passing visitors to see and experience a community. They should be encouraged.
79.	Sidewalk cafes provide a special or unique touch to warm weather dining. The flavor of the city is extended outdoors, making the dining experience more enjoyable for patrons and residents. This should ultimately be good for the establishments as well, since they will be benefitting from a visual presence.
80.	Gives customers and guests more access to the outside beauty of our City while dining.
81.	During warmer weather I feel that having outdoor eating areas are nice.
82.	I think that it is one of the many charming things that people love about Corvallis.
83.	It's great to sit outside on a nice day. It makes downtown more lively.
84.	It adds to the atmosphere, attracks people to bussiness and makes the downtown look alive.
85.	Not much
86.	These cafes are valuable in several ways: they give a festive feel to downtown and also create a place for community to happen. The outdoor cafes lend an approachability to social interactions. For example, if I see an acquaintance

	sitting in an outside cafe table I will be much more likely to stop and chat than if s/he were sitting at an inside table. Especially if that person is with others. Outdoor seating creates an overlap between private and public similar to the front porches of days past and it would be a pity to lose them.
87.	It improves the atmosphere and attractiveness of any business. It is more inviting. Think of the atmosphere in European cities, which is wonderful. I think our downtown needs every bit of support we as citizens and government can do to enhance the downtown, so it does not deteriorate. It still needs help, as shown by the many empty storefronts.
88.	I enjoy having a beer and a meal outdoors during daylight hours
89.	ambiency; socialness; prompts more desire to be downtown, shop downtown. Great change of pace during better weather when can get out. Fresh air. Makes the area come alive. Stimulates us all.
90.	Promotes business/social interactions/street life.
91.	They make our downtown streetfronts very inviting. By populating the sidewalks they inherently discourage vagrants. They contribute to making First Street and the waterfront a very inviting area. The arguments by a very few people complaining about allegedly limited access should not be allowed to derail the wonderful things that are happening downtown. THe sidewalks are not being mae inacessible to wheelchairs. There will always be some difficulty in wheel chair movement in crowded situations, unless perhaps we chase everyone out of the way to their private living rooms and leave the sidewalks deserted.
92.	It allows us to enjoy summer dining.
93.	It's enjoyable to sit outside and enjoy the sights and nice weather Corvallis has to offer. Outside seating add to the ambiance of the town, making it look lively and friendly. Seeing people enjoy themselves makes me want to join in. I imagine it is good for business as well as a way to expand the serving area in pleasant weather. I now go downtown to eat much more regularly than I used to.
94.	It makes the city look alive, as opposed to dead. 10 years ago first street was dead, I don't want to go back to that. It's good for business, it drives more business. During out gorgeous summers, businesses should be able to give their patrons a taste of outside.
95.	I don't mind it if they do not create hassles for pedestrians and the disables.
96.	I like the fresh air and the ability to take a step outside to enjoy my meal or drink. Although I am not a cigarette smoker, I know that with no smoking rules in Corvallis the smoking population really appreciates to have a place where they can go comfortably with food and beverages.
97.	nice to sit outside, esp in warm weather. Good ambiance for a friendly community
98.	When the weather is nice it is great to sit outside and enjoy the scenery and people walking past
99.	They are a great way to enjoy an "urban outdoors". Also they feel like they bring the downtown together and make if seem more vibrant.
100.	It's wonderful to just to be out of doors and enjoy the weather and people

	watch.
101.	I like being able to sit outside and enjoy good weather and fresh air.
102.	casual and comfortable
103.	They provide an incredibly unique amenity to a growing downtown area that longs for increased livability.
104.	They put some life on the streets. Creates a public social venue. Creates more dining al fresco.
105.	I like the outdoor sitting arangements, but I do not like the fences
106.	I don't like anything about them. I'm sorry to say this but it just blocks foot traffic on the sidewalks.
107.	They create an open, community atmosphere with a quaint small-town feeling.
108.	I like sitting outside while I eat/drink and watching what goes by. I like the fresh air and not listening to the usual restaraunt sounds of dishes clanging and whatnot.
109.	The sidewalk seating makes the area more inviting. It is lovely to be able to sit and watch people while eating. Many location have small seating ares inside and so the outdoor seating allows more business.
110.	Makes it a more fun place to be. We have beautiful Spring and Summer weather and it is a great place to sit outside. It gives a more relaxed and pleasant atmosphere to the city. Its one of the things I enjoy about going to resort cities. Things just seem more hospitable.
111.	I love to sit outside and enjoy the city!
112.	Outdoor seating is inviting for customers and good for businesses. Creates a pleasant urban environment for visitors.
113.	1. It adds to "ambiance" of many of the restaurants, especially on nicer days. 2. It can add to a sense of community. (ie. being able to chat with passers by, smile, wave to neighbors, etc.) 3. In evenings, for bars, it allows a specific area to smoke with ashtrays. Otherwise, smokers are more scattered, and tend to flick thier butts on the ground.
114.	Pleasant place to meet friends and have dinner and wine.
115.	who doesnt like to be outdoors on the nice days enjoying a snack and a cold beverage .
116.	Summers are short. To be able to enjoy dining/drinking outside is both enjoyable and healthy. Sidewalk cafes encourage me to dine downtown; I would estimate they easily double my use of eateries/bars downtown.
117.	It adds to the atmosphere and makes nice days/nights more enjoyable to socialize with friends and family.
118.	They allow patrons to enjoy the outdoor freshness of nice weather that cannot be enjoyed many months of the year.
119.	It allows people to gather and enjoy the beautiful Oregon weather, while having a meal or beverage.
120.	Create an active street environment. Like sitting outside in the evenings for eating, drinking, and people watching. It is really nice to sit outside for lunch.
121.	During the warmer months they are very heavily used and we need more of them. Even in winter the sidewalk areas which are covered are used.
122.	It offers open air dining which is wonderful during the spring, summer and fall

	months (weather permitting)
123.	Being able to take advantage of good weather and having a comfortable place to meet with friends.
124.	I like the smoking outside. Even though I am not a smoker, others are and I appreciate an area where they can do this.
125.	most keep it low key. But alot have to much stuff out and makes it hard to get around
126.	For restaurants, it's nice because you can enjoy the weather.
127.	The relaxed outdoor environment; but the sidewalks are just too narrow to permit them and still allow pedestrian traffic to move freely.
128.	Sidewalk cafes are a valuable asset to the community because they provide innocuous settings that are conducive for cultivating friendships in informal gatherings. We can all benefit from the enjoyment of each others company with the addition of a bit of fresh air; sidewalk cafes are successful because of this inherent need. Because of the enjoyment of friendships and fresh air, local businesses with sidewalk cafes gain patrons whose business further fuels the local economy and is good for the growth and development of Corvallis. To discourage these sidewalk cafes would be a disservice to the community.
129.	They allow for a very inviting and lively downtown atmosphere
130.	they are another way to enjoy nice weather and to spread out the partrons at popular eateries
131.	They add a feeling of vitality and sociability to the downtown. They encourage passers-by to relax, recreate, linger, and enjoy the interesting surroundings. They add to the overall beauty of the downtown.
132.	I think they add style and charm to a great downtown area. It is a nice addition and adds a sense of community to the area. It is a beautiful area and with the great weather it is very nice to be able to sit outdoors and enjoy a meal.
133.	One can't say a lot (positive) about the cafes in Corvallis other than they exist. They are cheaply done, for the most part. Often in too small of a space with severe mobility limitations around them. What is generally nice about these cafe's is that they are outside where one can sit, have a beer and a sandwich, talk and watch people go by.
134.	We really enjoy the outdoor dining experiance and love to enjoy the weather when able
135.	Being able to enjoy a meal outside in the nice weather
136.	We love sitting outside with our children. After spring break, we asked our children what was the favorite thing they did on our vacation and our 4 year old daughter said, "Eating pizza (at American Dream) outside." It really is a wonderful experience.
137.	ambiance
138.	I support them as long as they don't interfere with pedestrian and handicapped access/ passage
139.	we can celebrate when the weather is good

Open-Ended Improvements:

9. Please describe below what changes you would recommend for sidewalk cafe requirements in Corvallis.

1.	No smoking
2.	only be allowed where space allows code compliance
3.	I'm not sure if there are restrictions for smokers in sidewalk cafes. If there are not, I would like to see that changed. These areas are attractive to all patrons. We should not allow smokers to ruin it for others. Please make these areas off-limits for smoking. Otherwise, they will simply become a hangout for tobacco use.
4.	No alcohol or smoking.
5.	Please do not allow smoking in sidewalk cafes. This ruins the experience for the rest of us and makes just walking past the restaurant a distasteful event. Please remove the fence requirement so that cafes will allow patrons to have well behaved dogs with them.
6.	The fences distract from environment. During the day they are an eyesore. They seem to make it difficult to keep the area clean.
7.	Do not have the fences if possible. They are a nuisance!
8.	I don't think a fence should be required around areas that serve alcohol.
9.	If fenced, ensure that the fences don't "migrate" into the clear pedestrian way - same would hold true for the cafe furniture if not fenced. Also, if the fence incorporates planters or other potential obstructions, these, too, should be outside the clear zone. If the fences are removed, there needs to be some sort of supervision provided for those that offer alcohol to prevent unintended bad behaviors.
10.	Fixed fences so that the 3-4 barrier free is enforce both for those with limited mobility and for those with infants in strollers
11.	ELIMINATE FENCES at all sidewalk cafes! Corvallis got sidewalk cafes and fenced cafes at the same time, assuming that places that serve alcohol need to be fenced off. Why? It appears that we were trying to solve a problem that did not even exist? The fences do not prohibit minors from receiving alcohol passed over the fence. (if that is the supposed problem?)
12.	Meet the 48" clearance specified in the US Access Board Public Right of way specs. If fences exist the support plates flat on the sidewalk should not protude into the clearance space. There is a real conflict between diasbled access and sidewalk cafe's. I propose a joint advisory organization between the disabled community, non-disabled community,and the cafe propriters.
13.	I think it's important to maintain access for people with disabilities. There needs to be enough room between cafe fixtures and the curb (or street fixtures) for people with wheelchairs to pass through, keeping in mind that people will pull chairs and tables in different positions to accommodate their groups. Seating at the sidewalk cafe should also be accessible for people with disabilities. Some of those in fenced areas tend to be very cramped for space,

	which does not allow for wheelchairs. Owners of cafes should be responsible for making sure that sidewalks are not blocked with tables, chairs, bicycles, and/or people.
14.	Except for allowing alcohol after 10, I would not change the requirements. Enforcement of the existing setbacks would take care of any problems pedestrians might be having.
15.	To remove the sidewalk fences completely. I have heard too many people say that they are too much of a barrier expecially for those in wheelchairs.
16.	Require more fixed fencing (fence holes drilled in concrete sidewalks) to avoid trip hazard of horizontal legs of movable fencing and to insure compliance of correct fence location.
17.	I would eliminate the fences and replace them with strictly enforced limits on fixed table and chair placement. Merchants should pay for cafe permits which would provide for one or more bicycle patrol officers to enforce alcohol and smoking laws as well as clear pedestrian right-of-way. While the fences provide such limits they impede easy passage for pedestrians, particularly wheelchair users and people pushing strollers. Two-way pedestrian passage is impossible in several places. A minimum of 7 feet should be required between curb to seating I would also make the cafes non-smoking. Too many establishments use them as a means of skirting the non-smoking
18.	Many of the side walk take so much of the sidwalk that two people cannot pass in front of the cafe. This is made much worse because of the fences around the cafe. The only good use for the fence is to chain you bike to them.
19.	Fences are not needed. New Morning and Francisco's just have tables. That seems to work well. Fences create a barrier and are not welcoming.
20.	I believe that the sidewalks should remain uncluttered and that all fences & barriers be removed.
21.	We need to provide more walking space on the sidewalk in front of the cafes. Take down the fences. They are not aesthically pleasing and serve no purpose whatsoever. The fences also take up sidewalk space that should be allocated to foot or wheelchair access.
22.	ALTHOUGH ALCOHOL CAN BE SERVED, I THINK MIXED DRINKS SHOULD NOT BE ALLOWED. I DON'T KNOW IF MIXED DRINKS ARE PRESENTLY ALLOWED
23.	Make them larger.
24.	Don't know of any.
25.	have more plants and flowers in the cafes.
26.	Wheelchair access.
27.	Make it as easy as possible for sidewalk cafes to exist. There should be a reward from the city to the business that goes to the trouble of providing a sidewalk cafe.
28.	Let the businesses recess their storefronts to accommodate al fresco dining if that's what they want. Don't give away public property to select businesses and cause a safety hazard and loss of convenience to the citizens who merely want to pass by. Moreover, it is unfair to the majority of merchants when a few businesses restrict access and impede pedestrian traffic flow in all of

	downtown. If I must walk in the street to easily go from point A to point B, then I'll shop where I'm more respected and welcomed.
29.	definitly eliminate the need for the fences
30.	Should be under awning cover and have the appropriate distances so pedestrians and handicapped scooters/wheelchairs are able to pass and not be forced to step into the street to pass by.
31.	Not sure...just to keep people safe. I guess since the drinking age in europe is not an issue, likely something different will need to be done regarding the fences...don't really know
32.	If the fences are removed, effective staff surviellance within the cafe designated area should be required. The plates that mount the fence should noot be permited to project into the ada path, even if they are 1/4" of less in height. They don't stay flat and become a trip hazzard. As previously stated, filling a portion of the tree well with pavers to meet the width requirement should be disallowed and enforced.
33.	It can be a little tight spacewise for pedestrians to squeeze by the fencing at points where there's a bike rack, planter or streetlight. I assume that minimum ADA requirements apply, though. So those areas shouldn't get any tighter!
34.	If there's anything to encourage more of them. . .
35.	We should charge more. This is very valuable commercial space, and the City is essentially giving it away. Should at least charge enough to cover the cost of monitoring and enforcement.
36.	wider access for other users of the sidewalk: at least 4 feet at all times. remove tripping hazards, such as legs and stabablization bars from fences enforcement of rules
37.	Make sure they are kept clean and more room for pedestrians to use sidewalk. Since it was public right of way, I'd expect restaurants to pay a high price for the use of the space.
38.	n/a
39.	If the only purpose of the outside area is to provide a place for people to smoke, then it is a gross area and other patrons of the space cannot enjoy it, and also it pollutes the air for passers-by
40.	I'd say, get rid of the fences!
41.	Make the sidewalks wide enough so wheelchairs and baby strollers can fit without bumping up on obstacles.
42.	Maybe try this on a seasonal basis first. I don't think this is a good idea for our rainy months since there would need to be larger awnings and heaters outside.
43.	I think all outside cafe's and coffee places should have the requirement of fencing, not just those that serve alcoholic drinks. The reason is because if there is no fencing, table and chairs are moved around which reduces the area that is left to walk. In addition, planters that have been added to "soften" the look of the fences, have large plants that are growing into the walking area. Basically, if there are two people walking side by side, when they come to these open seating areas, you have to walk single file to get by them.
44.	Expand the clearance for walkers and wheelchairs to clearly pass in both directions on sidewalks in front of sidewalk cafes without obstructions from

	fences, planters, chairs/tables; eliminate associated sandwich board signs and enforce the codes related to sidewalk cafe clearances. Link sidewalk cafe permit availability contingent on compliance with all other City requirements. It's a privelege, not a right to use the public ROW.
45.	Businesses shouldn't use the sidewalk, a public place, to essentially increase the square footage of their property. Do they pay property taxes on that increased footage? Do they reimburse the city for the profits they make on that public space?
46.	2nd streeet has large corrals that pinch pedestrian traffic flow too tightly against the street fixtures. On busy ped traffic days, Peacock enclosure encroaches too much on the Public ROW. . . even when it is not in use during the day.
47.	None, 3 feet of clearance meets ADA access complinace.
48.	I'm not really sure what the current requirements are, but I'd recommend trying to encourage more Sidewalk Cafes, especially downtown. Create rules that help them to thrive... When I think of wonderful, living places, one visioin that pops to mind is a vibrant public area, with markets, vendors, parks, and yes, sidewalk cafes. Can you even imagine Paris without them?
49.	I'm concerned that people in wheelchairs can't maneuver past the fences.
50.	There should be more of them, and they should all be allowed to serve alcohol during normal business hours.
51.	more distance
52.	Do away with the fences... the only reason I have heard is that they are in place because of alcohol consumption. Bottom line: we should know who is a customer and who is not, those that aren't should not be allowed to stand around and drink alcohol.
53.	they need to do a better job cleaning the sidewalk and curb in front of their business. The bar on 2d Street "sidewalk cafe" is a mess.
54.	The administration of this permit is wasteful and lacking in timeliness. Applications for the permit are sent out months after the start of the new year, often with an admonition that applicants must now rush to return said permit because it is late. Please make it a 5 year permit instead of an annual permit. Better yet, do away with the permit process altogether and just have operators provide proof of insurance and indemnification (which is mostly what the city cares about anyway).
55.	Neighborhood sidewalk cafes would also be a nice touch.
56.	Some sidewalk cafe fences tend to "creep into" the sidewalk area set aside for pedestrians. This is particularly troublesome for disabled folks. I think the fences either need to be removed (replaced with a painted demarkation?) or fixed to the ground so that they can't be moved into the sidewalk area.
57.	n/a
58.	Remove the fencing requirement. The space remaining on the sidewalk, while generally adequate, is sometimes difficult, especially if there are plants and ESPECIALLY big signs that block the sidewalk.
59.	peacock MUST change their ways. The fence is unsightly and it really takes up too much of the sidewalk. Big River needs to have all thier stuff on one

	side. It is difficult for wheelchairs, walkers etc and even me, who walks.
60.	No fences - they are intrusive to the sidewalk, pedestrians,
61.	I think when alcohol is involved people should not be able to access the sidewalk seating except through the inside area of the buisiness after 10pm.
62.	The fences look terrible. Surely there's another way to keep people from walking through the streets drinking without the permanent fences like the ones in areas of second street.
63.	No smoking allowed. Not appropriate for every cafe. Some just do not have enough sidewalk space for accessibility and safety.
64.	let 'em all have sidewalk services
65.	The side walk requirements need to consider the needs of all users including people with disabilities who may use canes and service animals or wheelchair users who may want to move with a companion at their side.. Federal requirements require 5 feet minimum, unobstructed clear space. This should be on the direct path of travel.
66.	I would recomend eliminating trafic in the water front area and the creation of a pedestrian mall with sidewalk cafes and a limited number of street food vendors.
67.	REMOVE ALL SIDEWALK CAFES
68.	To many plants/ etc between the fences and the street. This causes issues.
69.	They should accommodate the needs of people who have vision impairments and be safe for them. For example, if a person is walking on a sidewalk and comes upon a sidewalk cafe that narrows the walking space, there should be sufficient warning and safety precautions so that the person does not accidentally walk into a sidewalk cafe fence or table.
70.	Need to make CERTAIN there is room for people with disabilities to pass without getting off the sidewalk or smashing hands on chairs, tables, fences. Room for service animals to pass freely as well. Stroller access needs to remain on the sidewalks as well.
71.	Remove them
72.	I would hope that those considering "requirements" would not make them so onerous to restaurant/cafe owners that it's not worth their time or effort to provide an outdoor space for customers. They should not be viewed as permanent extensions of an establishment and instead as temporary accommodations for occasional use.
73.	Eliminate the fences, they spoil the atmosphere.
74.	I'm not too familiar with sidewalk cafe requirements in Corvallis, but recommend that the city makes it easy and appealing for establishments to provide outdoor dining for their patrons.
75.	Please encourage outdoor dining during plesant weather months so we can enjoy our City
76.	I am a power wheelchair user and dealing with crowded sidewalks has always been a challenge. From people to cars parked over the curb areas and bicycles just to name a few obsticles. Keeping a wide path for all sidewalk users is necessary.
77.	I don't find the fences and issue when downtown with my family member in a

	wheel chair. I just maneuver carefully or go across the street. I also would not mind if the fences were removed and alcohol was still served in the outdoor cafes. Patrons need to take responsibility for controlling alcohol access to minors!
78.	The current situation is ridiculous. Sidewalk access is a problem for everybody, not just wheelchairs. What is the building code requirement for minimum sidewalk width? I'm sure it is more than 3 feet. Let the restaurants use any additional space, but not encroach on the minimum sidewalk space.
79.	I think the city meets the requirements set up for disabilities.
80.	Should not be allowed on PUBLIC sidewalks, particularly where other obstacles like trees, bike racks, parking meters etc are located.
81.	Looking at the area in front of American Dream, I would suggest that the cafe fence is problematic in terms of both physical and social accessibility. For a recommendation I would look no further than right next door, at Francesco's, where there is no fence. I understand that the fences are code for those establishments serving alcohol, but I argue that the fences be removed for increased social interaction and accessibility (for folks like Ron Naasko and my good friend, Mike Volpe of Corvallis Co-Housing).
82.	Other than providing reasonable access, I don't think there should be any restrictions. If problems develop (e.g., a nuisance situation), let the City handle them specifically, not with a generic regulation.
83.	none
84.	Consumption of alchol should be allowed in appropriate tavern/restaurant settings. Fences do not need to be there but if removed, business owner does have to take extra care to monitor inappropriate behavior and maintain adequate sidewalk clearance for pedestrians. Rights of disabled need to be protected but not to the detriment of able bodied.
85.	Safe pedestrian/pet passage must be a top priority.
86.	I'm not sure what changes would be needed however we do need to stay aware of what it would be like to try and use our beautiful downtown if you were confined to a wheelchair.
87.	I hope the town will resist adding a bunch of requirements that cause sidewalk cafes to disappear. There will always be people who complain, but some of these complaints sound stubborn and uncooperative. If disability laws say 3 feet, then that seems adequate since the distance one must go around a cafe is pretty short.
88.	The fences are ridiculous. Get rid of them.
89.	I think it should leave at least 5 feet of walking space for two-way pedestrians without having to run into trees, bike racks, front of cars protruding into the sidewalk, or having to walk single-file, or having to wait for other pedestrians to go through before you can go.
90.	If there are some that do not give proper passage clearance, they should be dealt with accordingly.
91.	No smoking!! it's extrememly irritating to inhale cigarette/cigar smoke while walking by, and it often keeps me from using those restaurants if I have to breathe it to go in, much less wanting to sit outside, but not being willing to be

	near smokers. There needs to be much more room between the fences and the edge of the sidewalk, light poles, etc. for baby strollers, wheelchairs, more than one or two people walking by. I shouldn't need to turn sideways to walk past an outdoor seating area, which I've had to do many times, even walking by myself.
92.	the fences are a good idea - helps keep people from moving the tables and chairs further out onto the sidewalk
93.	I don't believe fences are necesarry for alcohol service. Many cities, including Portland do not have fences and do fine. Requireing fences seems more as a "feel good" law that has no effectiveness.
94.	I think eating at sidewalk type cafes would be better served by courtyard seating or in an area that was in the design of a restaurant when it was being built. In other words, not an add-on area on an existing sidewalk that narrows pedestrian flow.
95.	Add a no loitering clause. Get the transients that sit at the outdoor seating to move along if they are not going to buy anything. Some of these guys sit there for 8 hours a day.
96.	6 ft. of unostructionable walking space for pedestrains
97.	I would encourage even more businesses to set up sidewalk cafes.
98.	increase the distance between fence and obstacles (sign posts, etc. to 4 feet.
99.	I think that the fences are unnecessary, and too difficult to walk around, and I'm a healthy adult with no mobility problems.
100.	Personally I would ask that those tables and chairs be removed from the sidewalk area because pushing those chairs back away from the curb hasn't been effective because the customers have just pushed them back to make more room for themselves.
101.	None. I have navigated all the sidewalk cafe areas with a wide stroller with no problem.
102.	I think that they are fine the way that they are. I can understand the limited sidewalk space that some are concerned with though.
103.	It does seem that some cafes overflow or push the limits of area they are supposed to use. Also, cafes that do not have fences, like the Beanery on 2nd, often obstruct the entire sidewalk and make it impossible to use. The other concern that I have is that some cafes, particularly the Peacock, so not clean the outdoor area well and is becomes an eyesore.
104.	Don't wall them off. Allow dogs. Remove street parking from some areas and expand patio areas. Create more off street parking areas.
105.	The fenceing is not needed. I lived in Ann Arbor, MI for years and sidwalk cafes had no fenceing and work perfectly.
106.	Remove the fences. The businesses do not own the public sidewalk. By allowing the fences, the city is giving this public space to the businesses, at the exclusion of the rest of the public. The difficulties the disabled face having to navigate around the fenced areas is a magnification of the difficulty experienced by the rest of the public being forced to walk through narrow portions of the sidewalk to accomodate the businesses operating on public space. If the city does want to continue allowing private fencing of public

	property, then at minimum divided the sidewalk so that the majority of the sidewalk width is retained for public access.
107.	please remove the fences and other barriades . they do not serve any useful function and are in fact a danger to other side walk traffic.
108.	I would like to see their use greatly expanded and the requirement for fencing dropped.
109.	It should stay how it is.
110.	DISALLOW DOGS within the fenced in areas! Dogs are becoming a nuisance in many parts of downtown due to the insensitivity of their owners.
111.	None
112.	The fences keep creeping out to the edge of the sidewalk. Landscaping pots and plants need to be located outside of the walking area. The walkways should be wide enough for two people. By the time that you walk around the plants, posts, menu signs, etc. some of the walkways are not even wide enough for one person.
113.	Make it easier for a business to set up a sidewalk cafe.
114.	More cafe options for sidewalk dining.
115.	None
116.	More walkway between the fencing and the curb so people with strollers can get through more easily
117.	No finces and no drinking on the side walks
118.	Enforce the current code--at the Peacock, the space between the fenced off area and the sidewalk has to be less than 6 feet. It is a tight squeeze.
119.	The long term solution is to make 2nd street one-lane one-way for auto traffic,and extend the sidewalks on both sides to the traffic lane. No parking on the street, but a two-level parking structure on the site of the present parking lot next to American Dream. This would create an attractive, inviting, "continental" strolling, dining, socializing, shopping area in the center of town; an adjunct to Riverside Park and a revitalized downtown. A similar treatment was done very successfully in Billings, MT.
120.	no changes
121.	The enclosure of sidewalk cafes is cumbersome for those who walk by and those who would like to sit at sidewalk cafes. They may be aimed at helping enforce laws, but these are laws that the businesses are responsible to comply with. If businesses were ticketed when they didnt comply then they would either use enclosures to prevent such tickets or find another means of complying with the law; either way, I dont think the enclosures should be mandatory. Sidewalk cafes should be taken into consideration in future construction that is zoned for business and the size of sidewalks needs to be constructed accordingly.
122.	Keep clear designated areas, even if not fenced in.
123.	Some places are simply unsuitable for sidewalk cafes. I use a wheelcvhair and there are some places that have outdoor seating that crowd me uncomfortably close to the edge of a curb (perhaps they aren't legal?).
124.	Remove the fences. Disabled people have a right to be able to pass freely. Amend the legal code to require that no alcoholic beverages be left untended at

	outdoor tables at any time, with hard penalties for offending customers; this should prevent the possible problem of underage stealing described in the Gazette-Times.
125.	I would hope that no changes are made. As long as the cafe requirement is ADA compliant, then it should be up to the individuals.
126.	Invest more in making them functional. Construct wider sidewalks by eliminating automobile travel lanes and narrowing streets. Or eliminate the virtually permanent walls and barriers that occupy space and impede mobility.
127.	none
128.	We would actually like to see more of them, but they cannot make the passing space too tight. People just need to be patient and let others pass or wait a little if the passing space gets too crowded.
129.	increase fee to business owners; base it on % of gross revenue as done with franchise fees. Present regulations are good balance between conflicting goals(ADA access, room for sidewalk cafes, street trees, bike facilities, newspaper racks)
130.	Assure that there is at least 4-5 feet of clear sidewalk for ped/handicapped acess, NOT incluing pavers or tree wells. Also, adequate room also need to be left to avoid damage to street trees.
131.	remove the fences objects should not be readily moveable to ensure access for all, without having to ask for it ban smoking

Other Comments:

10. Is there anything else you might like us to know?

1.	Let's lighten up a bit and have some fun with sidewalk cafes.
2.	We need more dog-friendly establishments/parks/events. Sidewalk cafes help fill this need.
3.	Please consider other obstructions on the sidewalks (e.g. planters) in revising city code so that wide spaces of fairly staight pathways meet the objectives of beautification and ease of mobility on public sidewalks.
4.	No
5.	I like the idea of a variety of sidewalk cafe designs - and not a standardized look. This adds to the interest and "fun" provided. When the cafes are not being used for a period of time (more than 48 hrs, for example) the area should be cleared and the entire sidewalk area consumed by the cafe should be returned to sidewalk. Since the public right-of-way is being used by private firms for profit, the City should be reasonably reimbursed - either through the permit fee at an appropriate level, or through a minumum plus % net profit from the sidewalk use. Cleanliness has been an issue. The proprietor should be required to keep the area and surrounding area clean and properly maintained - always!
6.	Alchol consumption is a nuisance.
7.	The fenced areas block access to especially wheelchair persons. I live in a wheelchair and there are many sidewalk areas which I cannot use, and need to find alternative routes. (American Dream, Peacock, Fox and Firkin, others) As well, they cause ordinary pedestrians to wait on either side of the fenced area for other pedestrians to pass. Those areas are "one way" pedestrian traffic.
8.	Fencing and cafe furniture should be maintained (powder coated or plastic) so as not become rusty. Cafe area should be well maintained. Appropriate, per foot, fees should be charged for use of the Public Right of Way.
9.	even meeting all requirements some people psh the limits all they can. If the law says 6' then who is going to measure that distance while the sidewalk cafe is open? People will sit in areas that they shouldn't no matter what. I have had to go completely around a block because the sidewalk was to full of people that my wheelchair could not get by.
10.	if the fence stay then remove the parking on the street to make the sidewalk wide enough for the chairs, talbles, fences, trees, light poles, garbage cans and cars that overhange the curbs. The sidewalks should be wide enough for two mother with baby carrages to pass each other.
11.	Limit the number of tables and chairs that can be outside the restaurant.
12.	My decisions are mostly based on the ability of handicapped folks to move around safely & comfortably on the cities sidewalks,
13.	GOOD LUCK... IT'S A SENSITIVE ISSUE!!!!!!!
14.	no
15.	I really don't feel that liquor should be served outside. On one occasion my niece, who at that time was under 21, was with us and we couldn't go to the outside eating area because of her age. We weren't even "drinking" but that

	didn't matter. We were not pleased to be moved back inside.
16.	Can't get a wheelchair into a fenced sidewalk cafe; wheelchairs are about 30 inches wide an need meaneuvering room -- three feet for clearance is too narrow.
17.	All the greatest and most vibrant cities in the world have many sidewalk cafes. The sidewalk cafes provide for inclusive social interaction of the citizenry. Such inclusiveness promotes diversity and diversity is Corvalis' middle name. Let's have more sidewalk cafes.
18.	If I can't drink a beer on the sidewalk in front of my house or in a public park then why can others drink beer on the public sidewalk in front of a bar? Moreover, if I blocked a sidewalk while exercising my free speech in a peaceful protest I would be arrested, but the bars and Starbucks can block a sidewalk for pure profit. How is that fair or democratic? And who is going to clean up the hundreds of cigarette butts that now litter the sidewalks in front of the bars? Maybe a $100.00 fine per butt against the bar would motivate a sense of responsibility.
19.	I don't live there but have visited 3 times and may retire there one day. It is basically my dream town.
20.	If you are going to make it work, there has to be enforcement capability, and a compliance officer needs to insure enforcement. It should not have to be complaint driven. The projection of vehicle bumpers into the space where the curb to cafe portion is the distance in question should be measured from the bumper, not the curb.
21.	I typically cross the street rather than walk in front of the Peacock, due to the lack of access and the "seedy" cliental often loitering out front.
22.	Corvallis has done such a wonderful job keeping the city clean, not to mention keeping its downtown alive.
23.	The sidewalk "cafe" outside of the Peacock is not really a "cafe" as there is no food usually invovled and it is really just a corral to hold in smokers. i know many people who actually cross the street to avoid walking in front of that establishment if there are patrons outside (not just women, either). anyway, maybe the actual definition of "cafe" needs to be reassessed.
24.	We tend to "ordinance" everything to death and make some kind of law or rule about every potential problem. Let's lighten up in this regard. Remove the fences. Handle any problems that arise as individual problems, and stop trying to impose "blanket" solutions.
25.	Enforcement would be an issue here. How about just painting a wide yellow line on the sidewalk and everyone can tell where the line is.
26.	I think the outdoor seating areas have gotten out of hand. Downtown sidewalks are not wide enough and businesses are not being responsible to keep sidewalks clear.
27.	Encourage new developments to provide adequate space OUTSIDE of and adjacent to the public ROW for outdoor seating. The Waterstreet Market northside outdoor seating area and Big River landscaped outdoor dining area are two good examples of how this can be done. Charge private restaurants higher fees for using public property. Current fees are too low. Businesses are using

	public property for private gain and the citizens should get something back.
28.	Businessess with sidewalk cafes are getting a sweetheart deal--better business for them at no additional cost. The City should not be swayed into making consessions to meet 'demands' of people who have no rights over that space (i.e. the business owners) The space was constructed for all citizens to use and should be kept that way.
29.	The smoking in the sidewalk areas can be disagreeable. I'm not sure I'd want a total ban, but it can be obnoxious.
30.	We have numerous laws in place governing this issue thru building and planning, public works, fire department, ADA, And the OLCC. We need to not restrict this activity any further. I have seen planter boxes which encroach into the public right of way more than the sidewalk cafes.
31.	(1) All such venues that apply to the sidewalk cafe ordinance that were in existence before the city decided to enforce the permit fee should be grandfathered in and, (2) permits should be a one time submission and not annual.
32.	My sense is that spaces with tree lined streets and places for people to hang out -- esp. sidewalk cafes -- greatly enhance the beauty and livability of a city. I love walking down 2nd Street and seeing the folks in front of Francesco's grabbing a quick gelato fix, a couple at American Dream enjoying a slice and a beer, or someone drinking a cuppa joe w/a pastry at New Morning. It helps to make Downtown a destination.
33.	Cigarette butts are a nuisance. Restaurants owners must provide recepticles that are easy to use. People shuld be fined for throwing cigarette butts on the sidewalk.
34.	I feel that removing the fence from my cafe area would dramatically and negatively effect the value of my sidewalk cafe. We beleive that our customers are responsible enough to enjoy the odd beer or two in our cafe and have not had occaision to see otherwise. Unfortunately, I don't think you can legislate away every possible impediment to free sidewalk travel. If that is the goal then you would need to remove sculptures, newspaper boxes, crazy days sale racks, bi fold signs, mailboxes, planters, etc.
35.	The secret of life is honesty and fair dealing. If you can fake that, you've got it made. Groucho Marx said that and while it has nothing to do with sidewalk cafe permits, I felt it important enough to share with you.
36.	It is good to see that the city of Corvallis is beginning to discuss including some of the things (like sidewalk cafes and urban garden spots)that have made the great world cities (large and small) places that people want to be.
37.	I think it's important to continue allowing sidewalk cafes.
38.	:)
39.	You misspelled cafes on the front page of this survey.
40.	I feel that buisinesses would be able to monitor their customers until 10pm. After 10pm I feel that there should be a fenced area to contain the alcohol.
41.	It does seem a little unfair that businesses are making money using the public right-of-way for private business. I thikn this is balanced by the benefits of the cafes.

42.	I appreciate that you are doing this survey to solicit feedback from the community. This is an important issue.
43.	THE CAFES OBSTRUCT WALKING TRAFFIC AND WHEELCHAIR MOBILITY IT IS DANGEROUS FOR VISION IMPAIRED CITIZENS AS WELL
44.	I am not disabled, nor a parent with small childern, just concerned about such things. I would personally enjoy the outdoor experience and believe it draws in customers. I have had good experiences with it in other cities, but did see some customers in wheelchairs not have access due to tight spacing.
45.	Find a better way
46.	To encourage the occasional establishment of sidewalk cafes, perhaps the city should consider restricting or diverting auto traffic in some areas of downtown on certain days or after a certain time to accommodate and encourage pedestrian traffic.
47.	I would like to see more sidewalk cafes and a vibrant street life in Corvallis.
48.	I have grumbled about the inanity of the current situation for years. (At times I have even grumbled while sitting at a sidewalk table drinking a beer.) I'm glad to hear it is finally being addressed.
49.	NOT just an issue for those with MOBILITY challenges...some of us who are able to walk don't enjoy the obstacle courses that parts of downtown have become.
50.	As for the fear that "minors could remove beer or other drinks from table" (GT, 5/20/07), I argue that a little fence will not deter a youth from reaching across. If a youth wants alcohol and is willing to risk accessing it, how likely is it that s/he will do this in public? Rather then banning the outdoor serving of alcohol, a better solution might be to clear tables right away. Also, patrons should be encouraged not leave drinks unattended (which is never a good idea anyway, especially for women). Besides, haven't European countries been serving wine and beer at open sidewalk cafes forever?
51.	While I favor providing sidewalk access to all citizens, I do not favor tyrany of either the majority or minorities. There must be a win-win balance, and we must enhance our downtown.
52.	nope
53.	Sidewalk cafes can be a very stimulating ingrediant to giving Corvallis a nice feel and unique destination spot. Please do not restrict!
54.	Our leashed dog was attacked by another leashed dog passing in the opposite direction in the narrow pedestrian area created by the cafe area outside Peacock. In this case safe passage was impossible. I see that the current code is 6' minimum. I suspect Peacock is/was in violation of this ordinance since the passage seemed narrower than 6'.
55.	The question to ask is not is every sidewalk in Corvallis perfect for every disabled person in town, but rather, can disabled people maneuver with care around a few sidewalk cafes? My mother is in a wheelchair and she'd be the LAST person to want the majority of people to disband for a few moments of greater caution.
56.	Corvallis's downtown has the potential to be the best downtown in the state if its

	progress isn't stifled by antiquated concepts.
57.	I walk pass the American Dream on workdays to go to work. In the winter no customers sit outside but the fixtures and the fence are there, however, there are not a lot of people walking either. In the summer there are a lot of people going through that place and it is very inconvenient and congested. I feel like the pedestrians need a traffic light in front of that place to see who get to walk through first.
58.	The outside cafes in town are great for the public and overall a benefit to our environment here in Corvallis. I enjoy the pleasure of haveing them as do many of my friends.
59.	Thanks for making the input possible. I think the issue of maintaining sidewalk space is very important - there's a reason our sidewalks are a certain width, and these places reduce that width too far. In addition, some of the outside areas aren't very attractive; they're dirty or the tables/chairs aren't kept up. It'd be nice if something could be done about that too, but the space issue is more important.
60.	The lack of outdoor seating is one of the few things I think Corvallis could improve on - it is so nice here in the summer and we base our restaurant choice in part on where we can sit outside
61.	I'm just glad this concern is being addressed properly before it's out of control.
62.	The city should preserve sidewalk cafes.
63.	Yes this isn't Paris, France and the only thing those fences and outside tables do effectively do is to bottleneck foot traffic and i'm surprised some handicaped or elderly person hasn't become injured by those obstructions.
64.	I have tried to see the point of view of those with disabilities navigating the sidewalks and have no problem. I think those persons continually raising the issue have a personal problem and want to be catered to. Eliminating these sidewalk cafes won't do anything to appease these people but it will reduce the atmosphere within Corvallis.
65.	It is nice that there is outdoor seating at some establishments that are also non smoking.
66.	Corvallis is starting to get better. Let's encourage that.
67.	I question if alcohol really needs to be served on the street. Do we as a community really want the casual drinking of alcohol (and promotion thereof) to be so very visible for our children? Nothing advertises alcohol better than witnessing people drinking it every day in public places. The sidewalk is very public.
68.	Part of the complaint listed in the GT regarding sidewalk cafe seating pointed out cars whose front end protrude onto the sidewalk area. Perhaps there is a way to prevent this. Maybe by placing parking cement blocks in the spaces at question, Poles at the fronts of spaces,...
69.	Downtown is a much nicer place to hang out since the evolution of the sidewalk cafes.
70.	try to control the presence of the " street people" outside the post office.
71.	If the fences are removed then patrons would be more likely to move chairs around and perhaps take up even more of the sidewalk area than what is already permitted by the city

72.	I like the fenced outdoor use areas, but I don't like the dog issue.
73.	The sidewalks should be for pedestrians first. Then, the excess area should be for all of the other furnishings and private uses.
74.	I would like to see the planning to include sidewalk cafes in areas which are pedestrian friendly and not dominated by cars. Is there any way to have some test areas which are free of cars.
75.	Corvallis is an educated and growing community. A little more sophistication as is common in larger cities is a good thing.
76.	No
77.	Cafe areas such as Starbucks or Dutch Brothers should have to follow the same clearance areas as sidewalk cafes. These businesses have tables outside so enjoy the weather or for smokers but people gather many chairs around the tables and block pedestrian traffic.
78.	the bars that have drinking out side leave a lot of mess with cigarettes butts and cups no one to clean it up. the employee and owners dont clean it up.
79.	I don't always feel safe when walking by outdoor seating of the bars downtown. There are some scary people outside the Peacock and other bars there, even during the day. And there is always litter everywhere, mostly cigarette butts. They need to clean up these areas better.
80.	The fee for using the public sidewalk for private business is far too little. It should be raised.
81.	It strikes me as odd that Corvallis is addressing this issue so recently after constructing such a well-planned area. Either the handicap commmunity wasn't involved enough in the planning or this was an oversight on their part. Corvallis should make it a priority to have our town be friendly to those who have mobility limitations; however, bussiness' shouldn't be held accountable for the city's oversight on this issue of sidewalk width. Regulations should be put into place for future construction.
82.	on 1st st., it might be nice to have a permanent pedestrian area, that only allows delivery trucks within certain times (ie: in the am)and let the street develop a Piazza atmosphere!
83.	Places that seem dangerously placed/illegal - Quizno's on Circle Places that feel a bit tight and crowed but may currently be legal - Downtown American Dream, Riverfront restaurant(s) next to the bread store. East side of 2nd street in the block across from 5 star sports.
84.	I sincerely hope we can keep the sidewalk cafes in Corvallis. Long before we had them, I had wished for this custom to be adopted in our country. We need to do everything we can to encourage positive outdoor experiences in this very indoor culture of ours. While I'm at it, how about encouraging architects and builders to design high-rise dwellings with individual outdoor balconies, such as those you see in Paris? They look beautiful and they have a very useful function of bringing the outdoors in and getting the insiders out. How about orienting and designing all new construction to take full advantage of southern exposures and all that glorious sunlight and sunheat?
85.	Corvallis is a wonderful town.
86.	It takes an investment of money to make something like this work. Narrow

	sidewalks not designed for commercial occupancy by cafes are poorly suited. IF the City wants cafes to occupy the sidewalks, then the sidewalks need to be wider (ie invest $ in wider sidewalks).
87.	Please don't get rid of the sidewalk seating.
88.	Don't make changes
89.	Several downtown sidewalk cafe locations are serious problems currently, especially on first street, including the new Iovinos location, which as of yesterday was taking up the entire sidewalk with their new fences and furniture.
90.	I would like establishments serving food in disposable containers to be required to provide adequate trash receptacles on their premises.

Survey Instrument:

The City of Corvallis is conducting this non-scientific survey to gather public comments relating to Sidewalk Cafe's. Comments received from this survey will be provided to the Urban Services Committee for consideration. In addition, the Urban Services Committee has set two meeting dates for receiving public comments. The two dates are:

Tuesday, May 22, 4:00 - 6:00 PM
Wednesday, May 30, 5:30 - 7:00 PM

Both meetings are open to the public and will be held in the Madison Meeting Room at 500 SW Madison Avenue, Corvallis.

Questions or concerns about the meeting can be directed to Dan Carlson at 541-766-6929 or dan.carlson@ci.corvallis.or.us.

At the conclusion of this survey you will be returned to the City's homepage. Thank you for sharing your thoughts!

1. How would you describe yourself?

Corvallis Resident
Corvallis Business Owner with a Sidewalk Cafe
Corvallis Business Owner without a Sidewalk Cafe
Not From Corvallis
Other (please specify)

1. Corvallis municipal code requires a minimum distance of 6 feet between café fixtures (including fences) and the curb and a distance of 3 feet between café fixtures and street fixtures such as bike racks or lamp posts for pedestrian use. Do you consider these distances to be...

About Right
Too Large
Too Small
Don't Know

1. How large would you like to see these distance requirements be? Remember, current code requires 6 feet to the curb and 3 feet to any street fixtures.

In between cafe fixtures and street fixtures?
In between cafe fixtures and the curb?

1. Corvallis allows the consumption of alcohol within the permit area of sidewalk cafes. Do you find alcohol service to be appropriate at the sidewalk cafes?

Yes
No
Don't Know

1. Corvallis prohibits sidewalk cafes from serving alcohol after 11 p.m. Would you be comfortable if sidewalk cafes were allowed to serve alcohol after 11 p.m.?

Yes
No
Don't Know

2. Another requirement for cafes to serve alcohol is that they need to place a fence 36-48 inches tall around the service area. Would you be comfortable with continuing alcohol service if the fencing requirement was removed?

Yes
No
Don't Know

1. Please describe below what you like about sidewalk cafes in Corvallis.

2. Please describe below what changes you would recommend for sidewalk café requirements in Corvallis.

3. Is there anything else you might like us to know?

Excerpts from ABA & ADA Guidelines

Published in the Federal Register July 23, 2004, amended August 5, 2005.

401 General

401.1 Scope. The provisions of Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

402 Accessible Routes

402.1 General. Accessible routes shall comply with 402.

402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.

Advisory 402.2 Components. Walking surfaces must have running slopes not steeper than 1:20, see 403.3. Other components of accessible routes, such as ramps (405) and curb ramps (406), are permitted to be more steeply sloped.

403 Walking Surfaces

403.1 General. Walking surfaces that are a part of an accessible route shall comply with 403.

403.2 Floor or Ground Surface. Floor or ground surfaces shall comply with 302.

403.3 Slope. The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.

403.4 Changes in Level. Changes in level shall comply with 303.

403.5 Clearances. Walking surfaces shall provide clearances complying with 403.5.

EXCEPTION: Within employee work areas, clearances on common use circulation paths shall be permitted to be decreased by work area equipment provided that the decrease is essential to the function of the work being performed.

403.5.1 Clear Width. Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

EXCEPTION: The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width

segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

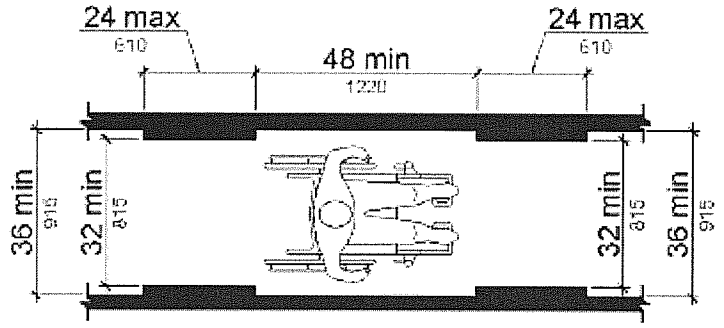


Figure 403.5.1 Clear Width of an Accessible Route

403.5.2 Clear Width at Turn. Where the accessible route makes a 180 degree turn around an element which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

EXCEPTION: Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 403.5.2 shall not be required.

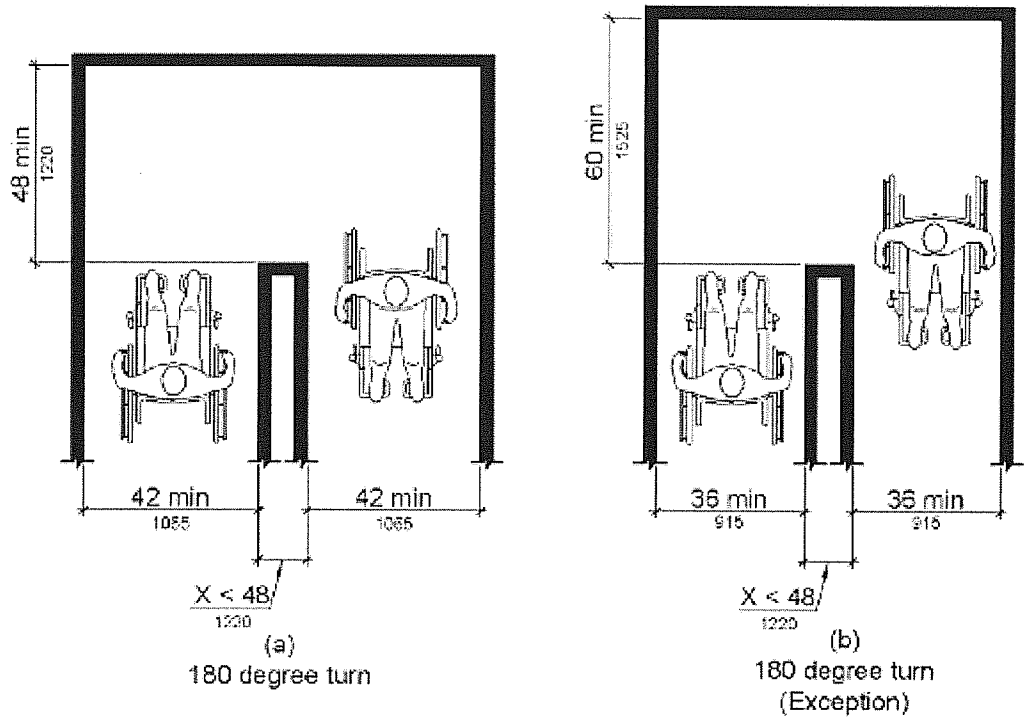


Figure 403.5.2 Clear Width at Turn

403.5.3 Passing Spaces. An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

403.6 Handrails. Where handrails are provided along walking surfaces with running slopes not steeper than 1:20 they shall comply with 505.

Advisory 403.6 Handrails. Handrails provided in elevator cabs and platform lifts are not required to comply with the requirements for handrails on walking surfaces.

Preamble to Excerpts from ABA & ADA Guidelines

Published in the Federal Register July 23, 2004, amended August 5, 2005.

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final Rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is revising and updating its accessibility guidelines for buildings and facilities covered by the Americans with Disabilities Act of 1990 (ADA) and the Architectural Barriers Act of 1968 (ABA). These guidelines cover new construction and alterations and serve as the basis for enforceable standards issued by other Federal agencies. The ADA applies to places of public accommodation, commercial facilities, and State and local government facilities. The ABA covers facilities designed, built, altered with Federal funds or leased by Federal agencies. As a result of this revision and update, the guidelines for the ADA and ABA are consolidated in one Code of Federal Regulations part.

DATES: The guidelines are effective September 21, 2004. The incorporation by reference of certain publications listed in the guidelines is approved by the Director of the Federal Register as of September 21, 2004.

FOR FURTHER INFORMATION CONTACT: Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone numbers (202) 272-0020 (voice); (202) 272-0082 (TTY). These are not toll free numbers. E-mail address: **ta@access-board.gov**.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Single copies of this publication may be obtained at no cost by calling the Access Board's automated publications order line (202) 272-0080, by pressing 2 on the telephone keypad, then 1 and requesting publication S-50 (ADA and ABA

Accessibility Guidelines Final Rule). Please record your name, address, telephone number and publication code. Persons using a TTY should call (202) 272-0082. This document is available in alternate formats upon request. Persons who want a publication in an alternate format should specify the type of format (cassette tape, braille, large print, or ASCII disk). This document is also available on the Board's website (http://www.access-board.gov).

Statutory Background

The Access Board is responsible for developing and maintaining accessibility guidelines for the construction and alteration of facilities covered by the Americans with Disabilities Act (ADA) of 1990.**1** The Board holds a similar responsibility under the Architectural Barriers Act (ABA) of 1968.**2** The Board's guidelines provide a minimum baseline for other Federal departments responsible for issuing enforceable standards.

The ADA recognizes and protects the civil rights of people with disabilities and is modeled after earlier landmark laws prohibiting discrimination on the basis of race and gender. To ensure that buildings and facilities are accessible to and usable by people with disabilities, the ADA establishes accessibility requirements for State and local government facilities under title II and places of public accommodation and commercial facilities under title III. The law requires that the Board issue minimum guidelines to assist the Department of Justice (DOJ) and the Department of Transportation (DOT) in establishing accessibility standards under these titles. Those standards must be consistent with the Board's guidelines.

The ABA requires access to facilities designed, built, altered, or leased with Federal funds. Similar to its responsibility under the ADA, the Board is charged with developing and maintaining minimum guidelines for accessible facilities that serve as the basis for enforceable standards issued by four standard-setting agencies. The standard-setting agencies are the Department of Defense (DOD), the General Services Administration (GSA), the Department of Housing and Urban Development (HUD), and the U.S. Postal Service (USPS).

Each Federal department responsible for standards based on the Board's guidelines under the ADA or the ABA is represented on the Board. These departments have been closely involved in the development of this rule. Through this process, the Board and the standard-setting agencies coordinated extensively to minimize any differences between the Board's guidelines and their eventual updated standards.

Issue:

Most jurisdictions that allow alcohol consumption at sidewalk cafes do not have fencing requirements for the permit area but they have open container laws which make it illegal to posses or consume alcohol on sidewalks. The question then arises about how the police in these jurisdictions determine if a violation of their open container law has occurred in the areas surrounding their sidewalk cafes because there is no clear demarcation between the allowed areas and the forbidden areas. Besides Corvallis, the only jurisdiction that has both an open container law and fencing requirements for sidewalk cafes that serve alcohol is Kirkland, Washington.

To answer this question an email was sent to the police departments in jurisdictions with open container laws but no fencing requirements. The question email and the responses from the police departments follow the summary table.

City	Fence Requirement for Alcohol Service	Open Container Law	Enforcement Method
Kirkland, WA	Yes	Yes	No issue
Olympia, WA	No	Yes	
Albany, OR	N/A	N/A	N/A
Ashland, OR	No	Yes	Rule of thumb
Bend, OR	No	Yes	Discretion
Corvallis, OR	Yes	Yes	
Eugene, OR	No	Yes	Sent question
Lake Oswego, OR	No	Unclear	Unclear
Portland, OR	No	Yes	Sent question
Salem, OR	No	Yes	Sent question
Springfield, OR	No	Yes	Common sense

Question:

My name is Justin Fuller and I'm working for the City of Corvallis on comparing different sidewalk café ordinances and regulations and I've come upon a tricky question that you might be able to help with.

I've read [jurisdiction's] Municipal Code section that details sidewalk café operations and noticed that there isn't a requirement for sidewalk cafes that serve alcohol to have fencing around the permit area. My question for you is that without a clear demarcation between the permit area and surroundings how do [jurisdiction's] police officers enforce your open container law in areas around these cafes?

Thanks in advance for your time.

Cheers,
Justin Fuller, Intern
City of Corvallis

Responses:

Ashland, OR

Great question,

A rule of thumb used is if they are at the table or walking to and from it no action. If they are walking away from the location etc... action.

Not very scientific and rather informal but it works well for us and is understood by all. It is rarely a problem for us.

Good luck

Ron

Bend, OR

Justin;

Interesting question. In a word, discretion.

Basically if a cafe has tables outside in front of their store front, it is considered part of the establishment. There is a 12' guideline, i.e., tables and such have to be no more than 12' from the front wall. If a patron takes his/her glass and strolls down the street, the open container rule can be enforced.

Do people window shop at stores in close proximity? Sure, but if they return to their tables, no real problem. Circumstances can dictate what steps can be taken, i.e., unruly, obnoxious etc.

As long as customers are at a table in front of the cafe within the aforementioned guidelines the intent of the Code is met.

Hope that helps, feel free to let me know if you need further.

Steve Esselstyn, Community Liaison
Bend Police Department
541-322-2976

Springfield, OR

Justin, as far as I know the issue has not arisen probably due to the fact that only one business utilizes the ordinance that I know of. From talking with others there is rarely anyone at these tables anyway. Bottom line is we (Police) don't have a policy dealing with this and would rely on common sense. If an individual were a customer of the business then they would be sitting at or standing near a table which we could confirm with employees of the establishment. Once it is determined that they are a customer we would assume they are within the meaning of the ordinance. Sorry I don't have a bright line response, but your inquiry is the first time I have given any thought to this.

Rick Lewis

Carlson, Dan

From: Nelson, Jon
Sent: Friday, May 25, 2007 1:54 PM
To: Carlson, Dan
Cc: Boldizsar, Gary; Day, Emely
Subject: FW: OLCC and sidewalk cafes

Hi Dan. Would you please forward to others as appropriate. Thanks.

-----Original Message-----
From: Ward 6
Sent: Friday, May 25, 2007 1:30 PM
To: Ward 8; Ward 2; Ward 3
Cc: ward6-web-archive@council.ci.corvallis.or.us; Nelson, Jon
Subject: OLCC and sidewalk cafes

Dear Urbaan Services Committee,
Below is an email I received from Mr. Fetterley. His email address is Michael.Fetterley@state.or.us I hope this information helps you in your deliberations.
Stewart Wershow

May 24, 2007

Stewart Wershow
City of Corvallis Councilor-Ward 6

Councilor Wershow,

Per your request, I would like to present information regarding the potential impact of changes to the City of Corvallis Sidewalk Café'
ordinance. My agency is "officially" neutral on any changes to the ordinance

The Oregon Liquor Control Commission requires any licensee who wishes to serve alcohol outside the licensed area (Sidewalk Café', patios or any other area not directly within the walls of the building) to submit a plan for the control of alcohol. Specifically, their plan to prevent access to minors, to control over-service of alcohol and to prevent alcohol from leaving the proposed area. The nature of the operation, any entertainment and hours of operation. As stated in the public testimony on 5/22/07, the Oregon Liquor Control Commission does not have a statewide requirement for fences for outside seating area. We can and do mandate fences for operations that have, in our experience, the potential for alcohol problems. Generally, these are license premises that use their outside seating as an extension of a predominately alcohol consumption operation, with little food service.

If the City of Corvallis chooses to remove the fence requirements for sidewalk café's, my agency will have to review the control plan for each alcohol licensee with outside seating. If we determine that an adequate alcohol control plan requires a fence and the City of Corvallis prohibits a fence, we will have no choice but to revoke their outside seating alcohol service privilege.

It is my understanding that the Sidewalk Café' ordinance was enacted after problems with alcohol service at the Fox N Firkin on 1st street. Our records indicate that the Corvallis Police Department asked OLCC to assist with alcohol over-service and with patrons leaving the licensed area with alcohol. We placed a restriction on the premises that requires a fence, alcohol service only in conjunction with food service, that the area be staffed if more than 6 persons were using the area, and no minors in the
outside area after 9PM. This was, I believe in 1996 or 97. This license restriction will continue regardless of the any change in City of Corvallis's ordinance. If the City of Corvallis prohibits the fence, alcohol service at this location will be prohibited by OLCC. (Please note that the licensee at this location can apply to have the

license restriction lifted. This is not a fast or easy process.)

I would be happy to meet with anyone from the City or to answer any of the publics questions regarding this process or our regulations.

Michael W Fetterley
Inspector, OLCC
180 NW 5th Street
Corvallis OR 97330
(541) 766-6405

CORVALLIS POLICE DEPARTMENT

MEMORANDUM

May 29, 2007

TO: Urban Services Committee

FROM: Gary Boldizsar, Chief of Police

SUBJECT: Sidewalk Cafés Fencing Requirements

ISSUE:

At the May 22, 2007, Urban Services Committee work session a question was asked regarding the police department's operational needs for fencing at the sidewalk cafés that serve alcohol.

BACKGROUND:

Corvallis Municipal Code (CMC) section 8.08.090 (2)(d) requires each business with a sidewalk café serving alcohol to utilize solid or semi-solid portable fencing, planters, or similar approved barrier of thirty-six (36) inches to forty-eight (48) inches in height, to clearly identify the licensed space. CMC section 5.03.040.010.06 states that consumption of alcoholic liquor, possession of open container of alcoholic liquor in public places is prohibited. With the sidewalk area being a public place, consumption of alcohol outside of the specific licensed space of the sidewalk café is prohibited under the Municipal Code.

DISCUSSION:

While fencing around a sidewalk café is not a statewide OLCC requirement, the OLCC does require each licensed establishment to provide a plan for the control of alcohol within the sidewalk café. The OLCC may require specific establishments to install fencing, but others may not be required to utilize fencing. The only thing mandating the fencing for every establishment in Corvallis is the local ordinance.

While the fencing makes the enforcement of CMC 5.03.040.010.06 easier, it is not essential for the enforcement to occur. The fencing does simplify things for the customer in making it easy for them to stay within the law, and for the establishment in their required control of alcohol within the identified licensed space.

RECOMMENDATION:

The police department recommends no changes to CMC 8.08.090(2)(d).

CITY ATTORNEY'S OFFICE

MEMORANDUM

May 30, 2007

To: Urban Services Committee

From: Jim Brewer, Deputy City Attorney

Re: Sidewalk Cafes/Questions from Committee

Issue:

Does the City of Corvallis have the authority to prohibit smoking within the fenced areas of a sidewalk cafe.

Brief Answer:

Yes.

Background:

Currently, both the Corvallis Municipal Code and the Oregon Revised Statutes are silent regarding smoking within a sidewalk café permit area. State law dealing with smoking (and limiting the authority of cities to prohibit smoking in some situations) does not address smoking outside. The Corvallis Municipal Code provisions currently prohibit smoking outside businesses within a reasonable distance (and not less than 10 feet) from a service line or entrance to any place of business. Other than the reference to serving lines and entrances, the Corvallis Municipal Code does not directly address smoking in areas that are not "enclosed". The Code provisions specifically state that any business may declare an entire establishment as a non-smoking establishment. This could be seen as including sidewalk café areas under permit from the City.

Discussion:

The City has the authority to grant sidewalk cafes as permits to occupy the right of way or as leases of the right of way. Sidewalk café permits are granted by the City so long as the business meets the requirements in the Code. Nothing prohibits the City from amending the sidewalk café provisions to require that any establishment choosing to operate a sidewalk café must designate the sidewalk café as a no-smoking area. This could apply to either sidewalk cafes that do have fenced areas or sidewalk cafes that do not have fenced areas, or both. The City Council would need to amend the sidewalk café ordinance provisions to make it clear that prohibiting smoking within the sidewalk café areas would be a condition for obtaining a sidewalk café permit.

If the City Council chooses to do this, then it is clear that a business that allowed customers to smoke within the sidewalk café areas would be in violation of the sidewalk café permit. It is not as clear whether either the business or a person smoking in a sidewalk café permit area would also violate the no-smoking ordinance. Arguably, accepting a non-smoking requirement as part of the conditions for a sidewalk café permit would make the sidewalk café permit area part of a no-smoking premises, and a person smoking (or allowing smoking) in these areas would be in violation of the no-smoking ordinance. Practically, a business has some authority to prohibit patrons from smoking, but less ability to prohibit pedestrians that cross into the permit area. This would seem to create some challenges for business owners and law enforcement, especially for those sidewalk cafes that do not require fencing. If the City Council decides to prohibit smoking in sidewalk cafes, and wants to enforce such a prohibition against patrons or pedestrians walking through a sidewalk café area, the best practice would be for the City Council to review and amend the smoking ordinance so that it clearly and specifically addresses issues related to sidewalk cafes.

Conclusion:

The City of Corvallis has the authority to amend the Corvallis Municipal Code provisions regarding sidewalk café permits so that smoking would not be allowed within the sidewalk café permit areas. The City also has the authority to amend the Corvallis Municipal Code provisions regulating smoking, so that smoking within a sidewalk café permit area would be prohibited. The City could amend either or both ordinances to prohibit smoking in sidewalk café permit areas.

MEMORANDUM

June 11, 2007

TO: Urban Services Committee

FROM: Nancy Brewer, Finance Director NB

SUBJECT: **Fees for Sidewalk Cafés**

I. Issue

To provide information about models for fees for sidewalk cafés.

II. Discussion

At the Sidewalk Café meetings a number of issues have been raised about the fees the City currently charges for Sidewalk Café permits. People commenting at the meetings stated they thought the permit amounts ($50 without alcohol and $100 with alcohol service) were about right, too high, and too low. There were a number of suggestions about setting fees higher or lower, including the following models:

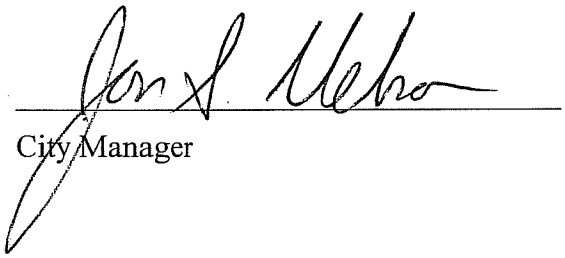
- The Franchise Fee Model – There was a suggestion to set the permit something like a franchise fee where a portion of the revenue from sidewalk cafes would be paid to the City. The franchise fee works well as a fee for utilities because the utility needs some mechanism to extend service to each and every piece of property within the city; using the City's right-of-way allows the utility to extend the service without also acquiring right-of-way. In addition, this model works well because every utility rate payer pays the cost for right-of-way usage on an equal basis. A similar model may not be conducive to sidewalk cafes, where the restaurant owner either would have to reduce profits from all operations, or charge sidewalk café users a higher fee to cover the permit fee (i.e., a mocha is $2 in the restaurant, but $2.10 at the sidewalk café to pay the 5% franchise fee). An additional challenge for the restaurant would be in developing a system to allow tracking sales at the sidewalk café versus sales inside the restaurant; at some restaurants, such as Starbucks, patrons make all purchases inside, then may sit inside, outside, or leave the building, making it more challenging to determine sidewalk café sales. Finally, staff would likely have difficulty determining whether or not the correct permit amount was being remitted.
- The Cover All Costs Model – This fee was discussed as an alternative which should include administrative costs to cover permit issuance, code enforcement, and police response to calls. Administratively, this fee would be a challenge to set and charge unless the charges occurred after the fact. So, for example, staff would track the amount of time spent with original permit issuance, and then with monitoring, responding to code complaints (i.e., fencing pushed out, signs in the right-of-way), or for Police response to noise/party type complaints. Then at the end of each month these costs could be tallied and billed to each restaurant. An alternative would be to determine the amount of staff time spent on all functions, then setting a sidewalk café permit fee that was the average of those costs and charge each restaurant the same fee at the time of application. One drawback of this model would be that sidewalk cafes which meet all permit criteria could pay a higher permit fee due to poor compliance by other entities.

- The Tiered Fee Model – This fee model would mirror some communities which have set a base fee that applies to either a certain number of square feet of outdoor seating or number of tables, then increases the fee for each increment above that base. Both Eugene and Ashland have fee models that are based on a base amount plus some amount per table or chair in the outdoor seating area. Eugene's charge is paid each month that outdoor seating is in place. The advantage of basing the fee on square footage of sidewalk space used is that the number would not change from day-to-day (assuming the issue surrounding borders for sidewalk cafés was resolved), as it might if based on number of chairs or tables.
- The Cover the Costs of Permit Issuance Model – This is the model currently in place. In this model, the permit fee is set to cover the costs of staff time for basic permit issuance. Staff time includes a review of the drawings that show where the outdoor seating will be, a site visit to confirm the information in the permit, and staff time to track the permit. Costs for the permit have not been reviewed for several years, and could be different than they have previously been if one of the results of this discussion is a revision in permit issuance process.
- The No Fee Model – While not explicitly requested, it is an option to require no permit. The Downtown Strategic Plan suggests streamlining the permit renewal process, which would likely include either no renewal fee or a reduced renewal fee since less staff work would be required. This model is supportive of sidewalk cafés as an economic development engine, but also provides no revenue to offset staff costs for enforcement of the code.

III. Requested Action

Staff is not requesting action on this item at this meeting. Rather, this information is provided for the Committee's consideration, and can be used to provide direction to staff on a model to more fully develop.

Review & Concur:



City Manager