Memo

To: Mayor Kwarsick, City Council
From: Jeff Arango, AICP, CFM – Director of Community Planning
Date: June 18, 2012

Re: Street Café Ordinance – 1st Reading

The street café ordinance is intended to enhance the pedestrian realm in the Central Business District by providing expanded opportunities for café seating within the street and alley right of ways. The ordinance is modeled after similar programs in cities and towns around the country that have successfully used street café programs to revitalize urban areas and generate positive economic impacts while creating a fun and inviting streetscape.

The street café permits are only applicable to food service businesses and are allowed between May 1st and September 30th. Two types of street café permits are authorized by the ordinance:

1. **Sidewalk Café Permit** – for use of an existing sidewalk or pedestrian alleyway for café seating. Due to narrow sidewalks throughout most of the CB District there are few opportunities for sidewalk or alley cafes, but that may change over time.
2. **Converted parking space to café seating** - Allows food service businesses to apply for a permit to convert up to two parking spaces to café seating. As part of the permit applicants must design and receive design review board approval for a temporary structure that is flush with the top of the curb and may be used seasonally for café seating.

**Parking Impacts**

The attached map identifies the existing food service establishments in the Central Business District (two are currently vacant). Based on the existing number of food service businesses a total of 16 parking spaces may be converted to street cafes. However, three of the businesses already have ample outdoor seating and are unlikely to utilize the program. Based on the 2011 parking study undertaken by the planning department there is ample parking in the CB District.
to support the loss of a relatively few number of parking spaces given the total parking supply of +/-550 parking spaces.

Program Term
Permits issued under the program are indefinite unless the program is revoked by the city or the city makes changes to the street right of way that would make it no longer feasible to have a street café in a given location. The ordinance includes a specific provision allowing the city to end the street café program at anytime.

Recommendation
Staff recommends the city council move the ordinance to a 2nd reading.
AN ORDINANCE OF THE CITY OF LANGLEY, WASHINGTON, RELATING
TO THE CITY'S STREETS, SIDEWALKS AND PUBLIC PLACES CONTAINED
IN TITLE 12 OF THE LANGLEY MUNICIPAL CODE; ADDING A NEW
SECTION 12.18.010 – STREET CAFES TO ALLOW FOR SEATING FOR FOOD
SERVICE ESTABLISHMENTS WITHIN THE CITY'S STREET RIGHT-OF-
WAY.

WHEREAS, the city desires a pedestrian friendly environment and to enhance the vitality of the Central Business District by providing expanded opportunities for café seating in the public right-of-way; and

WHEREAS, the city conducted a parking study of the Central Business District in the summer of 2010 that showed peak parking occupancy at 67% leaving in excess of 150 parking spaces during peak occupancy; and

WHEREAS, street cafes have been shown to provide economic and social benefits to downtowns by expanding food service seating and increasing pedestrian activity; and

WHEREAS, the city passed a complete streets ordinance in March of 2012 that obligates the city to consider a variety of functions in the street right-of-way including for pedestrians; and

WHEREAS, on December 16, 2011, the City’s SEPA Responsible Official issued a Determination of Non Significance threshold determination under the State Environmental Policy Act for the proposed street cafes subject of this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. 12.18.010 Street Cafes

A. Purpose. To expand outdoor seating and dining opportunities within the Central Business District by providing a permit process and standards to ensure the safe use of the city’s public right of way for this purpose.

B. Applicability. Sidewalk café seating may be permitted for any food and beverage service establishment such as a café, restaurant or tavern to utilize a portion of the public right-of-way on a sidewalk, pedestrian alleyway or through the conversion of on-street parking spaces.

C. Types of Sidewalk Café Permits.

1. Sidewalk Café Permit. This permit allows the use of the city’s sidewalks, pedestrian alleyways and street right-of-way for café seating.

2. Converted Parking Space Café Seating Permit. This permit allows the conversion of up to two on-street parking spaces per permitted establishment for café seating for exclusive use by the permitted food and beverage service establishment; provided, however, this permit is not available to food and beverage service establishments with existing outdoor seating on private property along the street frontage.

D. Sidewalk Café Permit Application. All requests for sidewalk café permits shall be made on the form provided by the city and submitted to the Director of Public Works. Applications to convert parking
spaces to café seating additionally require approval by the Design Review Board based on the standards contained herein. In addition to the information required otherwise by this chapter, an applicant must provide the following information with an application for a sidewalk café:

1. A site plan, to scale, that shows the location and physical limits of the sidewalk café and clearance width. The location of all tables and other physical objects (joist, planters, heat lamps, etc.) must also be shown on the site plan along with entrances and exits to the street café.

2. Details for sidewalk café furnishings including tables, umbrellas, and any elements used to physically define the sidewalk café such as poles and roping.

3. Whether any liquor, as defined in RCW 66.04.010 will be sold or consumed in the area covered by the permit; and

4. Proof of liability insurance pursuant to LMC 12.20.050, naming the City of Langley as an additional insured in the amount of at least one million dollars ($1,000,000.00) per claim.

4. Other information as requested by the Director of Public Works demonstrating compliance with the standards contained herein.

E. Sidewalk Café Standards

1. The Director of Public Works shall determine compliance with the following standards prior to issuance of a sidewalk café permit or condition such permit accordingly:

   a. The applicant is the owner or occupant of the abutting property and operates a food and beverage service establishment such as a café, restaurant or tavern thereon;

   b. The location of the sidewalk café shall not reduce or obstruct pedestrian passage on the sidewalk or pedestrian alleyway to less than five (5) feet to the obstruction. Furthermore, such placement shall be consistent with any applicable standards established by the Americans with Disabilities Act and shall not obstruct vehicular traffic or the use of any crosswalk, wheelchair ramp, bus or taxi zone. The maximum slope should be 2% per ICC/ANSI A117.1. In addition, at transitions any vertical change in elevation greater than ¼” but less than ½” shall be beveled at 2:1 maximum; those greater than ½” shall be ramped 1:8 maximum at transitions. The pedestrian path of travel should be straight and not involve sharp or jagged turns that would impair pedestrian circulation; and

   c. A sidewalk café width should not exceed the available pedestrian clear path of travel width. The Director may, in his or her sole reasonable discretion, allow the area of the sidewalk café to extend beyond the available pedestrian clear path of travel width when adjacent to one of the following:

      o Park, or
      o Street closed to vehicular traffic, or
      o Other public place.
d. The proposed sidewalk café area is included within a food-service establishment
permit issued by the Island County Health Department or has otherwise been authorized
by said department.

e. The café seating is authorized for use from May 1st through September 30th between
the hours of 9am and 10pm.

f. If the sidewalk café causes a change in pedestrian travel, appropriate repairs to the
right-of-way in the immediate vicinity may be required to accommodate the change or to
assure compliance with the ADA.

g. Electrical cords may not be strung over or be placed on the pedestrian path of travel.

h. For sidewalk café seating on a public sidewalk or pedestrian alleyway, the furniture
must be cleared when not in use. Furniture may be stored along the sidewalk or
pedestrian way as long as it is stacked and does not obstruct the passageway.

i. No lighting is permitted.

j. Unless expressly authorized by the director, no pavement shall be broken, no sidewalk
surface disturbed, and no permanent fixture of any kind shall be installed in or on the
sidewalk area in connection with a sidewalk café.

3. The director may suspend or revoke the permission granted if the applicant violates
this chapter, any implementing rules, or the terms and conditions of the permit.

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

1. 5 feet from alleys and from bus, handicapped parking, and commercial loading zones.

2. 5 feet from parking meters or pay stations, traffic signs, SDOT and utility poles, fire
hydrants, bike racks, and other street fixtures.

3. 3 feet from the front of the curb whenever sidewalk café is located adjacent to curb.

4. 5 feet from curb ramps, or the beginning of the corner curb radius where curb ramps do
not exist.

G. Converted Street Parking to Café Seating Standards.

1. Each food and beverage service businesses may request approval to convert up to two on-
street parking spaces in the public right-of-way to café seating in accordance with the standards
herein.

2. The café seating shall be on a structure, approved by the building official, that is flush with the
top of the curb and surrounded on three sides (adjacent to the travel lanes and other parking
spaces) with a fixed railing at least 36" in height and in compliance with the fencing requirements below.

3. The café seating structure shall be subject to approval by the Design Review Board in accordance with the following standards.

   a. A freestanding sign may be approved up to 1 square feet to be placed on the café seating structure.

   b. The applicant shall provide details on the type of furnishings proposed including tables, chairs, podiums and umbrellas.

   c. The use of plantings to soften the appearance of the café structure shall be required.

4. Converted street parking is prohibited for businesses within 50’ of a residential zoning district.

**H. Fencing.** Fencing is required to delineate the sidewalk café from the pedestrian path of travel. The following design standards apply to fencing for all sidewalk café permits:

1. Fencing must be between 30 and 42 inches in height. Fencing must be 42 inches in height, if required by the State Liquor Control Board.

2. Fencing must be detectable by cane to warn visually impaired persons of potential hazards in the path of travel. Fencing must include one or more of the following detectable elements:

   a. A toe rail with its top edge at 6 inches minimum in height and its bottom edge no higher than 1-1/2 inches above the adjacent surface;

   b. Fencing, landscaping, or other elements detectable by cane spaced no more than 27 inches vertically and no more than 24 inches horizontally; or

   c. Elements sufficiently detectable by cane to warn visually impaired persons of potential hazards in the path of travel.

3. Fence posts may be attached to the sidewalk with bolts or utilize free-standing bases. When bolted fencing is removed, the bolts must be removed from the sidewalk, the holes must be filled, and the sidewalk must be restored to original or better condition.

4. Fencing must be generally transparent. Solid sheet fencing surfaces are not permitted.

5. Fencing should be constructed with a railing, rope or other horizontal element; posts with pointed tops are not permitted.

6. Fencing must be constructed of high-quality finish materials (such as steel, glass or finish woods). Plastic and/or raw or pressure-treated lumber is not allowed.

7. Fencing shall not contain electrical or other utility elements.
8. Landscaped planters may be used in-lieu of fencing. Ropes or chains with free-standing bases may also be used, provided the above standards are met.

9. All seating and tables must be movable to accommodate wheelchair access.

I. Heating Elements and Overhead Weather Protection.

   1. Heating elements and free-standing umbrellas are allowed within the footprint of the permitted café, but may not encroach on the clear path of travel required in subsection IV.B of this Rule, except that when opened, an umbrella may encroach on the clear path of travel if the opened portion is more than 8 feet above sidewalk grade and if no part of the umbrella is within 25 feet of a stop sign.

I. Liquor. Liquor, as defined in RCW 66.04.010, as now existing or hereinafter amended, may be used and sold at a sidewalk café when authorized in both the use permit and provided for in this chapter and by permit of the Washington State Liquor Control Board, and not otherwise.

J. Sidewalk Condition. The applicant shall comply with the terms and conditions of the sidewalk café permit issued, shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the director or other appropriate city officer such as the chief of police, fire chief or their authorized representatives.

K. Amplified Sound. Installation and use of speakers and other amplified sound equipment is not allowed.

L. Permit expiration. The permit shall be tied to the food and beverage service business and shall be valid for the life of the business unless revoked by the director for any of the following reasons:

   1. The area used for café seating is no longer available due to changes in the configuration and design of the public right of way.[[NOTE – I don’t want to get into an argument whether changes in the ROW actually “prohibit” further use for café seating; with this deletion, the City makes the call based on changes to the ROW alone. MK]]

   2. The café seating is not in conformance with the requirements of this Chapter or the sidewalk café permit.

   3. The City repeals this ordinance, or suspends or cancels the sidewalk café permit program and eliminates all café seating in the public street right of way or pedestrian alleyway.