

**SUMMARY and FISCAL NOTE\***

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**1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to pedestrian and business interactions in the public place; making updates to regulations for cafés in the public place; making updates to pedestrian clearance standards to align with existing standards and amendments to clarify regulations; making technical corrections; and amending Chapter 15.16 and Sections 15.02.042, 15.02.044, 15.02.046, 15.02.048, 15.04.035, 15.04.060, 15.04.070, 15.17.005, 15.17.006, 15.17.007, 15.17.008, 15.17.009, 15.17.100, 15.17.120, 15.17.130, 15.17.150, 15.17.152, 15.17.200, 15.32.200, and 15.32.250 of the Seattle Municipal Code.

**Summary and background of the Legislation:**

This legislative proposal focuses on amending and adding provisions in the Seattle Municipal Code Title 15 relating to cafés in the public place and establishing consistent siting requirements for permitted uses of the right-of-way. Originally managed by the former Department of Planning and Development, the sidewalk café program came under the authorization of the Seattle Department of Transportation (SDOT) and SMC Title 15 in 2008. Since SDOT first began managing the sidewalk café program, it has proven to be a popular opportunity for food service businesses to provide outdoor seating, with a current total of 390 permitted cafés (representing participation from 14% of all food service businesses in Seattle) in over 30 neighborhoods. Cafés are valuable assets to Seattle’s streets and sidewalks because they add to public life vibrancy, social activity, and commercial vitality.

The SMC Sidewalk Café Chapter 15.16 has not been substantially updated by ordinance since 2011. Since then, SDOT staff have identified a number of barriers in the existing SMC that prevent food service businesses from taking full advantage of outdoor dining options, as well as opportunities for expanding potential design alternatives to encourage additional participation. This legislation is designed to be responsive to the expressed concerns of the business community as well as further the City’s commitment to creating vibrant social spaces and increasing opportunities for businesses to expand their operations in the right-of-way.

The proposed legislation provides updates to SMC Chapter 15.16 by: (1) removing the required 50-foot setback from parcels zoned single family and lowrise multifamily residential to give food service businesses more opportunity to provide outdoor seating and services for customers; (2) clarifying the City’s authority to issue permits for cafés in the curb space of the roadway (commonly known as “streateries,” and referred to as “curb space cafés” in this ordinance); (3) updating standards related to corner curb radius (renamed to “corner clearance zone”), visual corridor (renamed to “pedestrian straight path”), and pedestrian clear zone; (4) aligning setbacks with those included in the Right-of-Way Improvements

Manual—known as Streets Illustrated; (5) providing additional authority for the Director of Transportation and Traffic Engineer to require higher minimum standards for the pedestrian clear zone, pedestrian straight path, setbacks, and corner clearance zone; and (6) allowing businesses to transfer café permit ownership when the business changes ownership or the business vacates the premises, subject to the approval of the Department of Transportation. This legislation also clarifies the authority of the Director of Transportation and Traffic Engineer to allow for deviations from certain standards found in the Right-of-Way Improvements Manual using the established process. The proposal also includes related updates to Chapters 15.17 and 15.32 to maintain consistency in pedestrian clearance standards (including corner clearance zone, pedestrian straight path, and pedestrian clear zone) across various permitted uses of the right-of-way, including vending, merchandise display, and communication cabinets.

The proposed legislation is intended to achieve greater compatibility with other major policy initiatives of the City, including the Move Seattle Strategic Plan, Pedestrian Master Plan, and the Right-of-Way Improvements Manual. First, the ten-year Move Seattle Strategy (developed in 2015) identifies the need to transform Seattle’s streets and sidewalks into vibrant social spaces and emphasizes the creation of more spaces for people on our streets and sidewalks—including sidewalk cafés and curb space cafés—with the goal of increasing the number of these types of permits by 5% annually, and by 50% by 2025. Second, the Pedestrian Master Plan (adopted in 2017) established two objectives pertinent to this proposed legislation: (1) to promote vibrant public spaces that encourage walking, including public spaces integrated with adjacent businesses; and (2) to create and maintain a pedestrian clear zone on all sidewalks consistent with the Right-of-Way Improvements Manual. Third, the Right-of-Way Improvements Manual—also known as Streets Illustrated—establishes standards and guidance for designing and building in the right-of-way; this legislation will ensure that permitted uses of the right-of-way—including cafés, vending, and communication cabinets—align more closely with these standards, including appropriate setbacks and clearances.

Additionally, the legislative proposal provides various housekeeping updates to streamline content, clarify language, align language with current practice, and reduce redundancies across Title 15, such as establishing that vending “expressive items” (in addition to publications) as protected under the United States or Washington Constitution is an allowable use of the right-of-way; and establishing that First Amendment vending is not limited to only non-profit organizations.

**2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?     Yes     No**

### 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?         Yes   X   No

Appropriation change (\$):	General Fund \$		Other \$	
	2019	2020	2019	2020
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2019	2020	2019	2020
	\$0	\$0	\$0	\$23,375
Positions affected:	No. of Positions		Total FTE Change	
	2019	2020	2019	2020

**Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**  
There are no direct or indirect, short- or long-term costs to the City of Seattle.

**Is there financial cost or other impacts of *not* implementing the legislation?**  
There are no financial costs or other impacts to the City of not implementing the legislation.

#### 3.a. Appropriations

     This legislation adds, changes, or deletes appropriations.

#### 3.b. Revenues/Reimbursements

  X   This legislation adds, changes, or deletes revenues or reimbursements.

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

Fund Name and Number	Dept	Revenue Source	2019 Revenue	2020 Estimated Revenue
Transportation Fund (13000)	SDOT	Permit Fees		\$23,375
<b>TOTAL</b>				<b>\$23,375</b>

**Is this change one-time or ongoing?**

We anticipate that the legislation, if adopted, could result in approximately 17 additional café permits, representing a 4% increase over the current total of 390 café permits due to the elimination of the setback from residential zoning. The total amount of revenue increase is difficult to predict and will depend on the number of café permits ultimately issued and the size of those cafés. First year revenues are anticipated to be \$23,375, while ongoing revenue

is estimated at \$7,565 since café permits are annually renewed.

There are no anticipated impacts to revenue as a result of the updated pedestrian clearance standards for cafés, vending, merchandise display, and communication cabinets.

### **Revenue/Reimbursement Notes:**

To determine the anticipated impact of the legislation on number of permits (4% increase, as stated above), SDOT identified 296 food service businesses located in the currently restricted area within 50 feet of single family and lowrise-residential zoning that may be eligible for a café following the adoption of this legislation; this represents 10% of all potential food service businesses in the City of Seattle (2,886). We then applied the café program participation rate among food service businesses outside of the zoning setback area (14%)<sup>1</sup> to the number of food service businesses currently located in this area. SDOT concluded that 41 businesses are likely to participate in the café program in the current zoning setback area. However, there are already 24 cafés permitted in this zoning setback area due to being approved prior to the establishment of the setback rule, so SDOT estimates that 17 food service businesses from the zoning setback area would apply for cafés.

With additional applications and permits issued, SDOT anticipates an increase in issuance fees, review fees, renewal fees, and occupancy fees as a result of this legislation. These fees (2019 rates) are shown in the table below.

- Issuance fee: A one-time fee required at the time of issuance to cover administrative costs associated with permit issuance.
- Review/inspection fee: A one-time fee required at the time of permit application to cover the costs of permit review and inspection. The typical review and inspection cost is equivalent to three hours of review and 15-30 minutes of inspection time (\$269/hour and subject to annual adjustment) but can require more time if needed given the local conditions or quality of the application materials.
- Renewal fee: An annual fee to cover administrative costs associated with permit inspection, enforcement, and program administration.
- Occupation fee: An annual fee based on the size and location of the café (\$0.70-\$1.40/square foot range). The average café size of 192 square feet is used in this exercise in an Urban Center and on an arterial to estimate projected revenue.

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<sup>1</sup> Currently, in the areas outside of the zoning setback area, there are 366 café permits where there are 2,590 food service businesses, equating to a 14% participation rate.

**Fees Associated with A Café Permit (2019 Rates)**

Type of Fee	Cost Description	Fees: Year 1	Fees: Future Years*
Issuance fees	\$232	\$232	
Review fee	\$269 x number of review hours	\$807	
Inspection fee	\$269 x number of inspection hours	\$67	
Renewal fees	\$176		\$176
Occupancy fees	\$1.40 x 192 sq. ft.	\$269	\$269
<b>Total</b>		<b>\$1,375</b>	<b>\$445</b>

*Note: Review, inspection, issuance, and renewal fees can be amended annually by CPI.*

**3.c. Positions**

**\_\_\_\_\_ This legislation adds, changes, or deletes positions.**

**4. OTHER IMPLICATIONS**

- a. Does this legislation affect any departments besides the originating department?**  
This legislation affects the Seattle Department of Construction and Inspections (SDCI) indirectly through an associated Director’s Rule that specifies when SDCI review is required. When SDCI review is triggered, they will work with applicants directly to obtain any required permits. SDOT has involved SDCI in the review of the legislation and Director’s Rule.
- b. Is a public hearing required for this legislation?**  
No public hearing is required for this legislation. Public outreach was conducted during the development of this legislation and during the SEPA threshold determination posting period.
- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
This legislation does not require landlords or sellers of real property to provide information regarding the property to a buyer or tenant.
- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
The SEPA threshold determination for this non-project action did require publication of notice with *The Daily Journal of Commerce*, which was published April 8, 2019 and April 15, 2019.
- e. Does this legislation affect a piece of property?**  
This legislation does not affect a piece of property.
- f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged**

**communities? What is the Language Access plan for any communications to the public?**

Ultimately, this legislation will allow more commercial areas to be eligible for cafés by eliminating the setback area from single family and lowrise residential zoning. While this will go into effect across the city, the impact will benefit those areas with larger populations of people of color and immigrants since cafés provide a relatively affordable method of expanding a food service business.

People with disabilities should be aided with the passage of this legislation due to the fact that the pedestrian clear zone dimension will be increased citywide to improve mobility around cafés.

This legislation also intends to improve and restructure the documentation of café standards and regulations to make it more approachable and readable. This will make the café program more accessible for business owners from minority or immigrant backgrounds, who usually have fewer resources at their disposal to navigate government regulations.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

This legislation does not represent a new initiative or a major programmatic expansion, but does formalize two initiatives that have been operating on a pilot basis. These two design alternatives for outdoor dining and business activation of our streets and sidewalks—curb space cafés and fence-free sidewalk cafés—represent a growth in opportunities for the business community and local commercial districts. By providing two new design alternatives, SDOT is better equipped to realize its Move Seattle goal related to activating sidewalks and streets.

**List attachments/exhibits below:**

Summary Attachment A – Map of Census Demographics and Restricted Café Area