



City Council Special Meeting Agenda

Date: 4/30/2015
Time: 4:15 p.m.
Location: City Hall Council Chambers

- Mayor Nancy Tia Brown
 - Donny Anderson
 - Karen Ballinger
 - Jerry Fritz
 - Landon Greer
 - Steve Miller
 - Stan Wolz
 - City Administrator, Barry Cook
 - Administrative Services Officer, Cindy Baker
 - City Attorney, Scott Kolpitcke
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- Ordinance 2015-05 Second Reading
An Ordinance to Amend Title 7, Chapter 2, Section 12 of the City of Cody Code Pertaining to Sidewalk Cafés.
 - Update Council on activity at 16th and Mountain View Property.
 - Staff Reference: Todd Stowell, City Planner and/or Steve Payne, Public Works Director
 - Provide Council with FY15-16 Community Funding Request and Discuss preference for review.
 - Staff Reference: Leslie Brumage, Finance Officer
 - Update and further discussed on Cooper Subdivision Request for Water and Street Maintenance
 - Staff Reference: Steve Payne, Public Works Director
 - Review Agenda for Tuesday, May 5th Meeting.
 - Meeting Reminders:
 - Tuesday, May 5, 2015 – Regular Council Meeting 7:00 p.m. City Council Chambers

Time Adjourned: _____

ORDINANCE NO. 2015-05

AN ORDINANCE TO AMEND TITLE 7, CHAPTER 2, SECTION 12 OF THE CITY OF CODY CODE PERTAINING TO SIDEWALK CAFÉS

WHEREAS, the governing body has determined that it is in the public interest to amend Section 7-2-12 of the City of Cody Code.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, PARK COUNTY, WYOMING:

SECTION 1: Title 7, Chapter 2, Section 12, Sidewalk Café's is hereby amended to read as follows:

7-2-12: SIDEWALK CAFÉS:

7-2-12-1: PURPOSE:

It shall be the purpose of this section 7-2-12 to permit and encourage sidewalk dining in the downtown architectural district, as referenced in section 9-2-2 of this code, that is compatible with other uses of the public sidewalk when it does not negatively impact health, safety and welfare of city residents and visitors. The city finds that sidewalk cafes encourage a pedestrian oriented environment, help to create a visually attractive atmosphere and streetscape, and promote overall commerce.

7-2-12-2: PERMIT REQUIRED:

Private commercial use of public sidewalks for the purpose of operating a sidewalk cafe in the city is prohibited unless a permit is obtained as provided in this section 7-2-12.

7-2-12-3: DEFINITIONS:

MAJOR SIDEWALK CAFE PERMIT: A seasonal permit issued by the governing body, and renewable by application to the administrative services officer for a sidewalk café that conforms to the procedures and regulations of this section 7-2-12, for sidewalk cafe operations serving alcoholic and nonalcoholic beverages.

MINOR SIDEWALK CAFE PERMIT: A seasonal permit issued by the administrative services officer based upon approval by the public works director or designee for a sidewalk café that conforms to the procedures and regulations of this section 7-2-12, for sidewalk cafe operations serving nonalcoholic beverages only.

SIDEWALK CAFE: An outdoor dining area located on a public sidewalk in the downtown architectural district, that is provided with waiter/ waitress service or counter service. A sidewalk café contains readily removable tables and chairs and may contain railing and planters. It is otherwise unenclosed by fixed walls and is open to the air, except that it may have an awning or umbrellas, or other nonpermanent covers.

7-2-12-4: SIDEWALK CAFE STANDARDS; MINOR AND MAJOR PERMITS:

A. Clear Lane: A minimum sixty inch (60") clear pedestrian path must be maintained at all times to allow adequate pedestrian movement; provided, the governing body may authorize a narrower pedestrian path, not less than 36", for short distances when the sidewalk café is not located in Wyoming Department of Transportation right-of-way and pedestrian traffic is minimal. Any area potentially subject to overhang from parked vehicles shall not be included as part of the required pedestrian path. Potential vehicle overhang shall be determined pursuant to Table 2 of Section 10-16-10.

B. Nonhazardous Location: Cafes shall only be permitted where it is determined that the use will not create a hazard and where it will not create a sight distance obstruction for motor vehicle operators.

C. Location to Associated Establishment: Sidewalk cafes may only be located adjacent to the establishment with which they are associated.

D. Furnishings: Furnishings of a sidewalk cafe shall consist solely of readily removable awnings, covers, railings, tables, chairs, planters containing plants and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property, except that covers and railings may be secured by means of flush mounted anchors in a manner to be approved by the public works director. No objects which are part of a sidewalk cafe, except lighting fixtures, railing, awning or other nonpermanent covers, may be attached, even in a temporary manner, to any building or structure on which the sidewalk cafe abuts. All furnishings and fixtures shall be removed from public property at any time that the sidewalk café permit is inactive, such as during the dates of November 2nd through March 31st, or in the case of permit revocation.

E. Refuse Storage: No structure or enclosure to accommodate the storage of accumulated garbage may be erected or placed adjacent to or separate from the sidewalk cafe on public property.

F. Interference with Public Service Facilities: A sidewalk cafe shall not interfere with any public service facility, such as telephone, mailbox or bench, located on a sidewalk.

G. Impact on Adjacent Properties: Operation of a sidewalk cafe shall not adversely impact adjacent or nearby residential, religious, educational or commercial properties, and shall be in accordance with all applicable codes and regulations.

H. Electrical Requirements: All electrical wiring and fixtures associated with or part of the sidewalk cafe shall be permitted by the building department then installed and remain in conformance with the appropriate codes of the city.

I. Quality of Furnishings: Tables, chairs, umbrellas and any other objects provided with the sidewalk cafe shall be of quality design, materials and workmanship both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the urban environment.

J. Noise: Noise from the sidewalk cafe shall not interfere with residential, lodging, or other property uses in the area.

K. Closing Upon Violation: The establishment of a sidewalk cafe pursuant to the permit (minor or major), and the operation and maintenance of a sidewalk cafe, shall be considered to be a privilege and not a right, and the governing body reserves the authority to order the closing of any sidewalk cafe forthwith upon the conviction of a permittee in municipal court of a violation of this section.

L. Fees for Permit: The fees for the permit under this section 7-2-12 shall be seventy five dollars (\$75.00) for a minor sidewalk cafe, one hundred fifty dollars (\$150.00) for a major sidewalk cafe, or those fees on file with the administrative services officer which have been approved by the governing body by resolution. No permit shall be issued by the administrative services officer unless the fees required by this section 7-2-12 are paid.

M. Insurance Requirement: Each permittee of a minor sidewalk cafe shall file with the administrative services officer evidence of liability insurance equal to one million dollars (\$1,000,000.00) per occurrence. Also, the applicant shall provide proof of

insurance at the time of application. The applicant shall require the insurance carrier to provide the city with thirty (30) days' prior written notice of cancellation of any policy.

N. Nonliability: A signed agreement to defend, indemnify, save, and hold harmless the city and all of its officers, agents or employees from any liability for damages resulting from any and all occupancy and operations under a permit granted pursuant to this section 7-2-12 shall be submitted along with the application to the administrative services officer.

7-2-12-5: SIDEWALK CAFE STANDARDS; MAJOR PERMITS:

A. Liquor License Required: Major sidewalk cafes must hold a current city liquor license.

B. Standards: Major sidewalk cafes shall meet all the requirements set forth in section 7-2-12-4 of this chapter, in addition to the following standards:

1. Outdoor dining areas serving alcoholic beverages shall be continuously supervised by employees of the establishment.

2. Alcoholic beverages may be served in a fenced or enclosed area immediately adjacent to the building in which the licensed room is located. A sign, one square foot, reading "No Food or Beverages Allowed beyond Fence/Enclosure" shall be posted at a conspicuous location within the perimeter of the outdoor cafe serving alcoholic beverages.

3. The location of sidewalk cafes where alcohol is served shall be subject to the requirements of title 3, chapter 2 of this code.

C. Responsible Party for Violation: The party responsible for the enforcement of the provisions of this section 7-2-12 and compliance therewith in each instance is the permittee, and any prosecution for a violation of this section 7-2-12 shall be against the permittee.

7-2-12-6: OPERATING RESTRICTIONS; MINOR AND MAJOR PERMITS:

A. Hours of Operation: All sidewalk cafes shall cease sales or services by ten o'clock (10:00) P.M. each night and all areas shall be vacated by twelve o'clock (12:00) midnight.

B. Display of Permit: The permit evidencing permitting of the sidewalk cafe in accord with this section 7-2-12 shall be prominently displayed.

C. Serving Patrons: The restaurant shall not serve food or beverages to a patron at a sidewalk cafe area unless that patron is seated at a table or counter.

D. Appearance of Cafe: Sidewalk cafes and the public property on which they are located shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or cause pedestrian injury. Sidewalk cafe areas must remain clear of litter, food scraps and soiled dishes at all times.

7-2-12-7: OPERATING RESTRICTIONS; MAJOR PERMITS:

All alcoholic beverages to be served at sidewalk cafes shall be dispensed from the licensed dispensing room as set forth by the liquor license. Alcoholic drinks shall only be served to patrons seated at tables or counters. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk cafe, within the confines of the sidewalk cafe area, shall not be construed as a violation of any ordinance controlling open containers in a public area. The operator of the sidewalk cafe must be a city liquor

license holder, if he intends to service alcoholic beverages in the sidewalk cafe area, and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the state.

7-2-12-8: MINOR AND MAJOR SIDEWALK CAFE PERMITTING PROCEDURES:

A. Authority: The administrative services officer, with approval of the public works director or designee, is authorized to issue a seasonal permit to operate a minor sidewalk cafe on public property; provided, that the standards set forth in section 7-2-12-4 of this chapter have been found to be in compliance. The administrative services officer may also grant renewals of major sidewalk café permits pursuant to compliance with applicable standards of this chapter.

B. Operating Season: The seasonal permit shall allow the operation of a sidewalk cafe from April 1 up to and including November 1 of any calendar year. A permit may also be issued for less than a full season or for a stipulated number of operating days. The permit fee will not be prorated.

C. Review Of Application And Site Plans: Application and site plans for sidewalk cafe permits (minor and major) shall be reviewed by the public works director and administrative services officer.

D. Site Plan Approval:

1. A permit application available from the administrative services officer for site plan approval shall be submitted to the administrative services officer, public works director or designee. The application shall state the following:

- a. Name of the individual/business;
- b. Individual/business address;
- c. Address of sidewalk occupancy;
- d. Property owner if other than applicant;
- e. Written authorization from the owner of the adjacent associated property to submit the application, where the applicant is not the owner of the associated property;
- f. Name of planner, engineer, architect or agent;
- g. Dates of occupancy;
- h. Hours of occupancy;
- i. Capacity of existing associated establishment;
- j. Proposed capacity of sidewalk cafe;
- k. Area of occupancy (square feet and dimensions);
- l. Use of musical instruments or sound reproduction system;
- m. If application is a new application or renewal;
- n. A site plan drawn to the specifications of this section;
- o. Proof of liability insurance for one million dollars (\$1,000,000.00); and

p. Executed indemnity agreement.

2. The site plan and the accompanying application shall show the following:

a. The applicant's entire property and adjacent properties on a site plan with streets for a distance of at least twenty five feet (25') on either side of the property boundaries fronting the right of way, at a scale of one-eighth inch equals one foot ($\frac{1}{8}'' = 1'$), or other scale showing adequate detail.

b. A detailed plan showing the design, relevant details and location of all temporary structures, such as awnings, planters, landscaping, railings, tables, chairs and other equipment, as well as lighting and electrical outlet locations.

c. All exterior lighting shall be shown on the site development plan and shall be of such type and location and shall have such shading as will prevent the source of light from being seen from any adjacent roadway or residential property.

d. If the use of a musical instrument and/or sound amplifying system is planned, the applicant must be aware that complaints of excessive loud noise could result in a disturbing the peace violation, as provided in section 5-2-5 of this code.

3. The administrative services officer or designee shall distribute copies of the site development plan to the chief of police, fire marshal, city planner, and public works director for review and comments in relation to compliance with this and all other city ordinances.

4. If the applicant is not the owner of the subject property, a written letter shall be provided from the property owner stating his approval of the sidewalk cafe. Said letter shall be submitted with any application.

5. Property owners adjacent to the subject property and those located on the same block and side of the street shall be notified in writing by the applicant of the intent to establish a sidewalk cafe prior to submittal of any application. Adjacent owners shall also be requested to complete the form, included with the application, indicating support or objection to the application. These letters of support or objection shall be submitted with the application.

E. Decision: Based upon the review comments as listed above, the public works director or designee may approve, approve with conditions, refer the application back to the applicant for modification, or deny the application. If approved, the administrative services officer shall issue the minor sidewalk cafe permit.

F. Letter of Denial; Appeal: If the application for a minor sidewalk cafe permit is denied, the applicant shall receive a letter with the reason for denial. It shall be the applicant's option to appeal the decision to the city council by requesting an agenda request form from the administrative services officer.

G. Governing Body Approval: Major sidewalk cafe permits are subject to approval of the governing body. After review by city staff, the application shall be placed on an agenda for review by the governing body. The governing body shall then approve, approve with conditions, refer the application back to the applicant for modification, or deny the application.

7-2-12-9: TERM OF PERMITS AND RENEWAL PROCEDURES; MINOR AND MAJOR SIDEWALK CAFE PERMITS:

A. Term: A sidewalk cafe permit (minor or major) shall be valid for one season (April 1 through November 1) only.

B. Renewal: A renewal based upon the previous permit may be approved by the administrative services officer without full staff review, if the application meets the following conditions:

1. Ownership of the business has not changed.
2. Ownership of the property has not changed.
3. There has been no change to the site development plan.
4. There are no outstanding code violations.
5. The application is reviewed by the planning department to verify compliance.
6. Each permittee of a sidewalk cafe (minor or major) shall file with the administrative services officer evidence of liability insurance equal to one million dollars (\$1,000,000.00) per occurrence.
7. The renewal application is submitted on or before March 1 of each year to allow adequate time for staff review and renewal permit issuance prior to the beginning of the season.
8. The renewal is subject to all conditions placed on the original permit.
9. Failure by the permittee to submit all required documentation as set forth in this section 7-2-12 shall be the basis for denying a renewal permit.

7-2-12-10: PERMIT ASSIGNMENT OR TRANSFER PROHIBITED:

No permittee shall assign or transfer a sidewalk cafe permit.

7-2-12-11: APPEAL UPON DENIAL OR REVOCATION OF A PERMIT:

A. Revocation Or Suspension: Any permit granted under the provisions of this section 7-2-12 may be revoked or suspended at the action of the governing body for failure to comply with any sections of this section 7-2-12, any conditions of approval, or if there are any statutory liquor license infractions, upon the recommendation of any of the city departments that participated in the permit review process.

B. Removal of Furnishings; Cease of Operations: Upon revocation of a permit, all furnishings and fixtures shall be removed from public property within twenty four (24) hours. Upon suspension, all sidewalk café operations shall cease until such time as the permit is brought into compliance or it has been revoked.

7-2-12-12: VIOLATIONS:

Any person who operates a sidewalk cafe without a permit or who shall violate any of the provisions of this section 7-2-12 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than seven hundred fifty dollars (\$750.00), to which shall be added court costs up to the maximum allowed by law.

7-2-12-13: SEVERABILITY:

If any clause, sentence, paragraph or part of this section 7-2-12 shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof; but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

SECTION 2: EFFECTIVE DATE. That this Ordinance shall become effective after final passage and publication in the Cody Enterprise as required by law.

PASSED ON FIRST READING: APRIL 21, 2015

PASSED ON SECOND READING: _____

PASSED ON THIRD READING: _____

Nancy Tia Brown, Mayor

Attest:

Cynthia Baker
Administrative Services Director

MEETING DATE:	APRIL 30, 2015
DEPARTMENT:	PUBLIC WORKS
PREPARED BY:	STEVE PAYNE
CITY ADM. APPROVAL:	_____
PRESENTED BY:	STEVE PAYNE

AGENDA ITEM SUMMARY REPORT

Cooper Subdivision Request for Water and Street Maintenance

ACTION:

No action is required. Staff would appreciate direction from the Council as to whether or not the Council is interested in taking over the operation and maintenance of the sewer and street system within the Cooper Subdivision. Also, if the City provides water to the subdivision would the Council be interested in taking over the water system. At the April 2, 2015 special meeting of the Council, Reata Properties requested that the City of Cody take over the aforementioned systems.

BACKGROUND:

Matt Wagner, representing the Cooper Subdivision, came to the April 2, 2015 special meeting of the Council requesting that the City of Cody take over the aforementioned systems and connect the subdivision to City water.

City staff have completed a review of the City historical records. In 1984 there was discussion in the Council minutes of the potential annexation, but nothing relating to the City providing hook up to Water, Sewer or anything in reference to the Streets. There is also the annexation Ordinance, again without any specific reference to taking over the streets or any direction to staff regarding drafting letters outlining water and sewer facilities. The only other reference to this "subdivision" as a whole was in 2001 when a public hearing was held and subsequently Ordinance 2001-01 adopted to change from F-2 to D-3, Lots 3 and 4 of Block 3 - Tim Woods/Rawhide Mechanical property.

Northeast Cody Annexation was officially completed/recognized on June 20, 1986. The Cooper Subdivision was originally approved by Park County as a standard subdivision. Historically the subdivision has operated has a Mobile Home Park. With the exception of approximately six (6) lots, all lots within the subdivision have been owned by a single party, albeit different parties, since 1995.

At the time of annexation and continuing today, water is provided to lot owners within the subdivision from well(s) and a private water system. The water system is operated by a private Water Operator previously hired by the various entities that have owned the majority of the lots within the City of Cody. The City has informed the present owners and previous owners that the City is more than willing to have the subdivision connected to City water, but the water will need to be master metered, the City will need to receive hook-up fees for every lot connected (as is required for all connections to City water) and the Master Meter connection will need to be engineered and paid for by an entity other than the City. There are currently two locations where the subdivision could connect to City water.

The applicant and all previous owners of the Cooper Subdivision, since 1995, have been advised that City staff does not believe that the City has any obligation to operate and maintain the sewer, water or street systems within the subdivision, but the City would be willing to allow the subdivision to connect to City water as outlined previously.

RECOMMENDATION

Staff does not believe that the City has any obligation to operate and maintain the sewer, water or street systems within the subdivision. This is consistent with how the City handles all other Mobile Home Parks within the City such as Juby's, Green Acres and Riverside. Research of the City records has not provided any evidence to contrary.

AGENDA ITEM NO. _____

If the applicant wants to connect to City Water through a Master Meter system, the applicant will need to do the following:

1. Submit a plan and profile to the DEQ for their approval.
2. Pay all fees associated with getting the work completed:
 - a. Meter Pit - \$4,900
 - b. Meter - \$4,200
 - c. Back flow Preventer - \$1,949
 - d. Flange Bolt Pak - \$55
 - e. 300' of 8" Main - \$24,000
 - f. Total = \$35,104 - these fees may be negotiated with a contractor, but these are the costs estimated by staff. Only the meter fee itself would be charged by the City.
3. Pay all connection fees: If the Council wants to consider the area as multi-family due to the meter pit utilization and the lots predominantly owned by one entity the cost would be as follows:
 - a. Multiple-family dwelling units, including apartment houses and motels: Five hundred dollars (\$500.00) each for the first two (2) units; two hundred dollars (\$200.00) for each unit over two (2), and up to and including ten (10); one hundred dollars (\$100.00) for each unit over ten (10). It appears that there are 53 lots served water from the community water system. Not all of these are under the ownership of the Reata Properties, but are all served with water from the community system. The fees for all of the lots would be about \$6,900. If the Council considered this like a normal subdivision the fee would be \$31,800 or \$600/Lot.

If the Council chooses to move forward with taking over the streets, water and sewer systems within the subdivision and wants City crews to make the water connection, staff would have the following recommendations:

- a. The applicant makes payment to the City sufficient to cover all water connection fees.
- b. The applicant makes payment to the City sufficient to cover water hook-on fees for every lot within the subdivision.
- c. Prior to taking over the water system by the City, the existing water main system within the subdivision needs to have fire hydrants connected to the system (this costs has been estimated at \$14,377 just to purchase the parts), the system needs to be hyper-chlorinated and flushed and a leak detection survey needs to be completed of the entire system. Any leaks or challenges in the water system should be repaired. Also, if there are any galvanized or lead service connections to the main these service connections should be reconnected using pvc or copper. Also, curb stops to each and every home would need to be established. Meters would need to be established at every connection.
- d. The sewer system should be cleaned and video inspected. All grade challenges, sags, holes, or connection challenges should be repaired to City and DEQ standards. All manholes should be inspected and maintenance issues addressed.
- e. Prior to taking over the streets, the entire street system should be brought to City standards – sidewalks, established shoulders, pavement surface free of structural defects such as pot hole, raveling, pushing, shoving, etc. This is consistent with State Statutes relative to annexations and issues that can be considered when addressing annexations.

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