

FYI - Del Pepper
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Over the summer, several restaurateurs have expressed concern to council about two of the changes the City made to the outdoor dining regulations last June.

In particular, concerns have been raised about the prohibition on counter- or barstool- height tables and seating, which will become effective April 1, 2008, and about the requirement that permanent structures in the right-of-way, which had been approved as part of an outdoor dining encroachment ordinance, and would now have to be removed after November 19, 2007 (as is required for all other structures authorized under the outdoor dining ordinance).

With respect to the first issue, I believe that council wanted to avoid the look and image of bars and barstools in the public right-of-way, which emphasize the consumption of alcohol, but that the informality of counter-height outdoor dining can be an appropriate choice for an informal restaurant, and can contribute to the vibrant street scene which the outdoor dining regulations are intended to foster.

Accordingly, I would ask staff to docket for council's consideration an amendment to permit counter-height furniture which looks appropriate to a dining venue, and avoids the "bar" look. This amendment would establish heightened standards for counter-height facilities. At minimum, this amendment should require that counter-height tables be at least 30 x 30 inches, or 900 square inches if round, reasonably to accommodate serving and eating a meal. Such tables should also be furnished with condiments, table settings, etc., appropriate to an outdoor restaurant during the hours the restaurant is serving outdoors, and full-meal service and menus should be available. The amendment might also address specific materials to be used for counter-height furniture.

As to the second issue, council was concerned that there be a level playing field for all businesses participating in the outdoor dining program, and that all businesses be given equal rights to the use of public property. I believe that this goal can be accomplished by requiring that all restaurants pay the same outdoor dining permit fees, abide by the established limits on the outdoor dining season, and be required to remove tables, chairs and other movable furnishings at the end of the season, but that it is not necessary that more permanent structures, like fences anchored into the sidewalk, previously approved by the City, be removed at the end of the season.

Thus, I would ask staff to docket for council's consideration an amendment to "grandfather" the fences which have been previously approved as part of an outdoor dining encroachment ordinance, so that, as long as the previously approved structure remains in good order, it can stay in the right-of-way during the closed season. All other requirements of the outdoor dining regulations would continue to apply to these restaurants, as currently provided.