

Ordinance 2023-46

SHORT TITLE:

AN ORDINANCE AMENDING PROVO CITY CODE SECTION 14.34.480
REGARDING SIDEWALK CAFES. CITYWIDE APPLICATION. (PLOT20230246)

I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	KATRICE MACKAY	✓		
CW 2	DAVID SHIPLEY	✓		
CD 1	BILL FILLMORE	✓		
CD 2	GEORGE HANDLEY	✓		
CD 3	SHANNON ELLSWORTH	✓		
CD 4	TRAVIS HOBAN	✓		
CD 5	RACHEL WHIPPLE	✓		
TOTALS		7	0	

This ordinance was passed by the Municipal Council of Provo City, on the 14th day of November 2023,
on a roll call vote as described above. Signed this 28th day of November 2023.

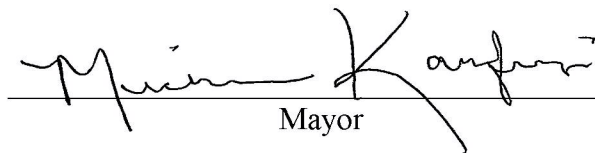


Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 28th day of November 2023.



Mayor

Ordinance 2023-46

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the

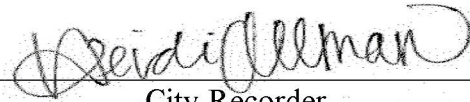
29th day of November 2023

and was published on the Utah Public Notice Website on the 16th

day of November 2023. I hereby certify and attest that the foregoing constitutes a true and

accurate record of proceedings with respect to Ordinance Number 2023-46.





City Recorder

ORDINANCE 2023-46.

AN ORDINANCE AMENDING PROVO CITY CODE SECTION 14.34.480
REGARDING SIDEWALK CAFES. CITYWIDE APPLICATION.
(PLOT20230246)

WHEREAS, it is proposed that Provo City Code Section 14.34.480 be amended; and

WHEREAS, on October 25, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

WHEREAS, on November 8, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 14.34.480 is hereby amended as set forth in Exhibit A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.
- C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.
- D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

Exhibit A

14.34.480

Sidewalk Cafes.

Where permitted by the underlying zone, and notwithstanding the provisions of Chapters 9.15 and 15.12, Provo City Code, a sidewalk cafe shall be permitted if the following requirements are met:

- (1) An applicant submits scaled plans demonstrating that the cafe will conform to the following development standards:
 - (a) At least six (6) feet of clear, unobstructed sidewalk width will remain available for pedestrian use.
 - (b) Sidewalk cafes shall be separated from the street by either a six (6) inch curb and two (2) foot setback OR bollards every six (6) feet adjacent to a street. ~~have a five (5) foot setback between the dining area and a driveway, alley, street or another public sidewalk.~~
 - (c) If a sidewalk cafe is designed to have more than one (1) row of tables and chairs, a non-sight-obscuring removable barrier not more than three (3) feet high enclosing the tables and chairs shall be constructed. Barrier gates shall not swing into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
 - (d) Awnings associated with the cafe will be installed in accordance with the International Building Code. Umbrellas under seven (7) feet in height shall not extend into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
 - (e) Signs associated with the cafe will be installed in accordance with provisions of the underlying zone. One (1) freestanding menu sign is permitted for each sidewalk cafe subject to the sign being located within the approved cafe area and being no more than six (6) square feet in size.
 - (f) Adequate facilities for the storage of trash generated by the cafe will be provided at a convenient location by the café owner(s) or operator(s).
- (2) A revocable license from the City is executed that includes the following provisions:
 - (a) Insurance will be continuously maintained to adequately co-insure Provo City against any liability associated with the sidewalk cafe, as reasonably determined by the City. The insurance certificate shall name the City as an "additional insured." Cancellation of such insurance shall require at least thirty (30) days prior notice to the City.

(b) Provo City, its officers, agents and employees, will be held harmless from any claims, causes of action, injuries, losses, damages, expenses, fees and costs, including attorneys' fees, associated or arising from the operation of the cafe.

(c) The cafe owner and operator will be responsible for repair of any damage done to the public sidewalk due to the installation or removal of furnishings, barriers or other features of the sidewalk cafe.

(d) Hours of cafe use will be limited to not earlier than 6:00 A.M. and not later than 12:00 A.M. and will not exceed the operating hours of the associated eating or drinking establishment.

(e) Any music or entertainment shall meet the sound limitation requirements outlined in Chapter 9.06.

(f) The sidewalk cafe and surroundings will be maintained in a neat and clean condition at all times by the café owner(s) or operator(s).

(g) The Cafe owner and operator will remove cafe improvements if necessary for sidewalk repair or replacement, utility maintenance, or upon failure to comply with the terms of the agreement.

(h) Sidewalk cafes shall only be operated between March 1 and October 31. Furniture shall be removed from the right-of-way outside of these dates.