

CHAPTER 119: SIDEWALK CAFES

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§ 119.01 PURPOSE.

The purpose of this chapter is to permit and encourage sidewalk dining that is compatible with other uses of the public sidewalk. The city finds that sidewalk cafes encourage a pedestrian-oriented environment, help to create a visually attractive atmosphere and streetscape, and promote overall commerce.

(Ord. 1128.09, passed 2-9-09)

§ 119.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or clearly requires a different meaning.

ABUTTING PROPERTY OWNERS AND OCCUPANTS. Any owner or occupant of property which abuts the subject sidewalk cafe site excluding public right-of-way; and any other person who has requested in writing to be provided such notice.

ADJACENT SIDEWALK AREA. That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.

OPERATE A SIDEWALK CAFE. Serving food or beverage from a restaurant to patrons seated at tables located within the adjacent sidewalk area, including, in the case of a permittee in possession of a valid license for the sale of alcoholic beverages covering such sidewalk, the service of such beverages, or providing seating for patrons in the adjacent sidewalk area.

(Ord. 1128.09, passed 2-9-09)

§ 119.03 PERMIT FEE.

The permit fee shall be established by resolution of the City Council and adjusted annually. (Ord. 1128.09, passed 2-9-09)

§ 119.04 PERMIT APPLICATION.

(A) Application for a permit to operate a sidewalk cafe shall be made at the City Manager's Office on a form provided. The request for permit shall minimally contain:

- (1) A completed application;
- (2) A scale diagram of the area for sidewalk café use, with dimensions shown;
- (3) A certificate of insurance and endorsement form; and
- (4) The location and description of the tables and materials requested to be in the right-of-way.

(B) Other information shall be provided as required by the City Manager to carry out the purpose of this chapter. (Ord. 1128.09, passed 2-9-09)

§ 119.05 NOTICE REQUIRED.

Prior to rendering a decision, the City Manager shall mail abutting property owners and occupants notice that an application for a sidewalk cafe has been filed. The notice shall contain the diagram submitted by the applicant, state whether or not the business is licensed to serve alcoholic beverages which may be served and consumed at the sidewalk cafe if the permit is granted, and state that all comments concerning the proposed sidewalk cafe must be received by the City Manager within ten calendar days from the date of mailing the notice. (Ord. 1128.09, passed 2-9-09)

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§ 119.06 LOCATION RULES AND REVIEW CRITERIA.

(A) The City Manager shall review the application for its compliance with the following criteria:

(1) The operation of a sidewalk cafe is limited to structures which are sited within ten feet of a public sidewalk, and which are located in one of the following zoning districts: B-1 (Central Business District) and B-2 (General Business District).

(2) The operation of a sidewalk cafe shall be located such that there is at least five feet clear and unobstructed passageway between the sidewalk cafe tables, chairs and barriers and street trees, bike racks, lamp posts, sign posts, and any other fixtures or obstructions. The City Manager may require more than five feet if necessary to protect the public safety. The City Manager may also reduce this requirement where unusual circumstances exist and where public safety would not be jeopardized.

(3) The sidewalk cafe may only be located in the adjacent sidewalk area to the applicant's business, but may extend in front of adjacent businesses with the written consent of both the property owner and the business owner, subject to review by the City Manager.

(4) The sidewalk cafe shall be located five feet from driveways and alleys, and ten feet from intersections. These requirements may be modified by the City Manager where unusual circumstances exist.

(5) The location of the sidewalk cafe shall be as approved by the City Manager.

(B) The City Manager shall forward all applications for review to the Planning Commission. The Planning Commission shall confirm the zoning of the request, and confirm that the proposed use is in conformance with the requirements of the Land Use Ordinance.

(Ord. 1128.09, passed 2-9-09)

§ 119.07 LIABILITY AND INSURANCE.

A signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damages insurance as will protect permittee and city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than the amount of municipal tort liability under M.S. Ch. 444, Tort Liability, Political Subdivisions. The permittee shall name the city as an additional insured by attaching an endorsement to the certificate of insurance (provided by the city). Such insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured the city, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the expiration of the permit without 30 days written notice to the city.

(Ord. 1128.09, passed 2-9-09)

§ 119.08 FORMS AND CONDITIONS OF PERMIT.

(A) *Requirements for all sidewalk cafes:*

(1) Each permit issued shall terminate December 31 of the year in which it is issued.

(2) The permit issued shall be personal to the permittee only and is not transferable in any manner.

(3) The permit may be temporarily suspended by the City Manager if the public interest requires use of the right-of-way for a public event, construction, repair, or any other purpose.

(4) The permit is specifically limited to the area approved or as modified by the City Manager, and will include a diagram indicating the area approved for the sidewalk cafe and the location of the tables and materials permitted to be in the right-of-way.

(5) The operation of the sidewalk cafe shall be such that there is at least five feet from the outermost edge of the sidewalk café to the street curb, that also includes a minimum of three feet clear and unobstructed passageway between the sidewalk cafe tables, chairs and barriers and street trees, bike racks, lamp posts, sign posts, and any other fixtures or obstructions. The City Manager may require more than five feet if necessary to protect the public safety. The City Manager may also reduce this requirement where unusual circumstances exist and where public safety would not be jeopardized.

(6) The sidewalk and all things placed there shall at all times be maintained in a clean and orderly condition. Only those things authorized by the permit and shown on the diagram may be stored in the public right-of-way when the sidewalk cafe is not in operation. Should the permittee not utilize the sidewalk as authorized for a period of seven days or more, all the tables and materials shall be removed therefrom.

(7) The operation of a sidewalk cafe requires that covered trash containers be provided on site and emptied on a regular basis.

(8) All required building modifications or parking improvements shall be completed prior to the commencement of the operation of the sidewalk cafe.

(9) No signs shall be attached to any furniture, umbrellas, awnings, or other structure related to the operation of the sidewalk cafe.

(10) Sidewalk cafes shall be continuously supervised by employees of the establishment.

(11) Sidewalk cafes shall meet all requirements of the local health licensing authority.

(12) Tables, chairs, and other structures associated with the sidewalk cafe shall be kept free of litter and other debris at all times.

(13) Sidewalk cafes and adjoining sidewalks shall remain clear of litter, food scraps, and soiled dishes at all times. Where establishments provide take-out or self-service, an adequate number of employees must be maintained to clear sidewalk cafes on a regular basis. Sidewalk and flooring areas must be cleaned daily, including adjacent sidewalk areas.

(14) Sidewalk cafes that serve alcohol shall install a portable fence surrounding the café so as to prevent access from the sidewalk by patrons. Access must be achieved through the applicant's business.

(15) The city has the right to repeal or amend this chapter and thereby terminate or modify all sidewalk cafe operations. No permittee shall obtain any property right in the continued private commercial use of the public sidewalk.

(B) Businesses which intend to serve alcoholic beverages at the sidewalk cafe must additionally meet the following requirements:

(1) The business shall hold a valid liquor license as set forth in M.S. Ch. 340A.

(2) Storage of containers commonly used for dispensing alcoholic beverages to customers including but not limited to bottles, pitchers, and carafes must be kept inside the business unless an employee is stationed in the outside area at all times. No taps, kegs, coolers, or other alcoholic beverage storage devices are allowed outside on the sidewalk.

(3) Sidewalk cafes where alcoholic beverages are served and consumed require supervision by employees of the license business, as required by M.S. Ch. 340A for said issued liquor license.

(4) Non-emergency entrance and exit to and from the sidewalk cafe shall be from the main entrance and exit of the establishment and not directly to or from the sidewalk cafe area.

(5) All service and consumption of alcoholic beverages at sidewalk cafes shall coincide with liquor license hours of operation.

(6) All alcoholic beverage service providers must also provide food service in the licensed area.
(Ord. 1128.09, passed 2-9-09)

§ 119.09 DENIAL, REVOCATION, SUSPENSION OF PERMIT.

The City Manager may deny, revoke, or suspend the permit upon finding that any provision of this chapter or condition of approval will be or has been violated. Upon denial, revocation, or suspension the City Manager shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective immediately, but the applicant or permittee may make written request, within ten calendar days after the notice is issued, for a hearing by the City Council. Upon hearing the matter, the City Council shall render a final decision concerning the permit.

(Ord. 1128.09, passed 2-9-09)

§ 119.10 EXPIRATION DATE.

This chapter permitting and regulating sidewalk cafes within the city shall expire on December 31, 2014. This provision, commonly known as a “sunset provision,” is included in this chapter to ensure that this chapter, its purpose and its desirability will be reviewed by the City Council within a reasonable time after its adoption.

(Ord. 1128.09, passed 2-9-09)

§ 119.99 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be penalized as provided in § 10.99. After two infractions, the sidewalk cafe permit shall be revoked for a period of at least one year.

(Ord. 1128.09, passed 2-9-09)