

CHAPTER 143

SIDEWALK CAFÉS

143.01 Definitions
143.02 Use of Public Sidewalks Restricted
143.03 Permitted Uses
143.04 Usable Sidewalk Café Area

143.05 Days and Hours of Operation
143.06 Sound Equipment
143.07 Sidewalk Café License Agreement
143.08 Operation of Sidewalk Cafés

143.01 DEFINITIONS. As used in this chapter, the following definitions apply:

1. “Pedestrian” means any person traveling on foot or wheelchair.
2. “Public right-of-way” means any public street, alley, roadway, sidewalk, walkway, right-of-way or public way designed for vehicular, bicycle or pedestrian travel and dedicated to public use.
3. “Restaurant” means a business whose primary function is the service of food to customers and which meets the following criteria:
 - A. Prepares meals on the premises and provides meal service to each floor of the premises which is open to the public while the kitchen is open;
 - B. Has a food service menu from which customers may order;
 - C. Has an employee whose primary duty is the preparation of food and an employee whose primary duty is to serve food to customers;
 - D. Has a kitchen separate from the bar equipped with all of the following: a stove, a griddle, a grill or broiler, and a food refrigeration unit with a capacity in excess of twenty (20) cubic feet;
 - E. Operates the restaurant service during at least sixty percent (60%) of the hours that the business is open to the public;
 - F. Holds itself out to be a restaurant and advertises itself as a restaurant if it advertises; and
 - G. Includes a café, cafeteria, coffee shop, delicatessen, ice cream shop, lunchroom or tearoom.
4. “Sidewalk” means the improved portion of public right-of-way dedicated to and/or intended primarily for pedestrian use.

5. “Sidewalk café” means an outdoor area located temporarily on a public sidewalk contiguous with any side of a building wherein a restaurant is located and where food and beverages are taken for consumption by persons sitting or standing at tables in that area. Sidewalk cafés located on a structure on top of a public sidewalk are subject to approval of the Council, and must provide suitable access for persons with disabilities. Such structures shall not be more than eight (8) feet in height, measured from the lowest point of the existing sidewalk elevation to the top of the railing, excluding amenities. Permitted sidewalk cafés must abide by the requirements and limitations as determined by the Council.

143.02 USE OF PUBLIC SIDEWALKS RESTRICTED. Use of public sidewalks for sidewalk cafés is unlawful except as specifically provided in this chapter.

143.03 PERMITTED USES.

1. Sidewalk cafés shall be permitted in the public right-of-way only.
2. The sidewalk café area must be contiguous with any side of a building wherein a restaurant or food service establishment is located, and shall be referred to as the “sidewalk café area.”
3. The sidewalk café, as part of a restaurant, must be licensed by the Department of Public Health or its successor.

143.04 USABLE SIDEWALK CAFÉ AREA.

1. A sidewalk café area may not extend onto the sidewalk in a manner that will not allow a minimum of six (6) feet of unobstructed sidewalk, except for trees, adjacent to the street for pedestrian use.
2. No tables and chairs shall be placed in street corner areas defined by building lines extended to the street, and no closer than ten (10) feet from an alley.
3. The area for a sidewalk café shall be delineated by fencing, chain or roping as approved by the City Council. *(Ord. 07-07 – Oct. 07 Supp.)*
3. A sidewalk café may not utilize any public amenities such as benches, seats, tables or trash receptacles.

143.05 DAYS AND HOURS OF OPERATION.

1. A public right-of-way license agreement shall be issued in conjunction with yearly renewals of alcoholic beverage license/permits

or one year from the date of issuance for establishments not dispensing alcohol. The initial application may be less than the one-year period to coincide with existing alcoholic beverage licenses/permits, and will require full payment.

2. The sidewalk café may be operated and used from April 1 through October 31 of each year.

3. Sidewalk cafés shall be operated each day only between the hours of 7:00 a.m. and midnight.

4. Food and beverages must be available for service to patrons in a sidewalk café during all hours of operation. Sidewalk cafés shall not operate when the restaurant kitchen is closed.

143.06 SOUND EQUIPMENT. Amplified sound equipment is not permitted in sidewalk cafés.

143.07 SIDEWALK CAFÉ LICENSE AGREEMENT.

1. Establishments must apply for and obtain a public right-of-way license agreement from the City prior to operation. Each applicant shall file an application with the Clerk, on forms provided by the City and containing all pertinent information as the City may require, and shall agree to abide by State and local laws governing use of public right-of-way. Establishments dispensing any alcoholic beverage must do so under State and local law. An annual fee for license agreements shall be established by Council resolution, and all agreements shall be for one 12-month period.

2. All license agreements shall be issued by the Clerk and numbered consecutively, and a record kept, but only after approval by the Council as required by State and local law.

3. Even after Council approval of a public right-of-way license agreement, the City shall retain the right to terminate the license agreement but only after written notice of violation has been given and the time to cure the violation has expired. Grounds for termination of the license agreement shall include, but not be limited to, repeated violations of the State and liquor control laws, violations of the license agreement and creating a safety hazard, health hazard and/or public nuisance under State or local law. Additionally, the City retains the right to terminate the license agreement and direct removal of sidewalk café operations if, after deliberation, the Council determines there is a substantial and reasonable need for use of the public right-of-way for a valid public purpose.