

98.05 Sidewalk cafés.

A.

Definitions. The following words shall have the following meanings:

1.

"Sidewalk." That portion of the right-of-way between the paved portion of the street and the adjacent property line which is intended for the use of pedestrians.

2.

"Sidewalk café." A portion of a public sidewalk that is used by a business establishment to serve food and beverage.

B.

Permit Required. Notwithstanding [Section 98.01\(A\)](#) of this chapter, an owner or operator of a business establishment which serves food and beverage may occupy a portion of a public sidewalk with a sidewalk café after obtaining a permit in accordance with this section. Any business owner or operator occupying any portion of a public sidewalk without a permit as required by this section shall be subject to the fines and penalties set forth in subsection L.

C.

Authority to Adopt Rules and Regulations. The Director of Public Service may adopt rules and regulations pertaining to the application for, issuance and revocation of permits, and the location and operation of sidewalk cafés.

D.

Permit Application. An owner or operator of a business establishment may apply for a sidewalk café permit by filing a completed application, on a form provided by the Plans and Permit Center, with the Plans and Permit Center. The application shall include the following information:

1.

Name, phone number and address of the applicant;

2.

Name, address and phone number of the business establishment for which the applicant is seeking the sidewalk café permit;

3.

A site plan with dimensions of the proposed area to be occupied by the sidewalk café (with photographs) and the hours and days of operation;

4.

A site plan with dimensions of the locations, number and arrangement of tables, chairs, and other structures, the location of the pedestrian diverters planned to demarcate the occupied area, the location of the entrance to the

establishment, the locations of fire exits or fire escapes, and the nature and location of any existing sidewalk obstructions;

5.

A signed statement that the applicant is the owner of the business establishment immediately adjacent to the proposed area to be occupied by a sidewalk café;

6.

A description of the type of food and beverage to be served;

7.

If applicable, a copy of the applicable liquor permit, expansion permit, and a complete copy of the expansion permit application submitted to the Division of Liquor Control;

8.

Certification that the applicant's business meets the requirements of the Zoning Code;

9.

Evidence that all required health licenses have been obtained or have been applied for; and

10.

A signed statement that the applicant shall hold harmless the City of Akron, its officers and employees and shall indemnify the City of Akron, its officers and employees for any claims or damage to property or injury to persons or any costs which may be occasioned by any activity carried on under the terms of the permit. Applicant shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee and the 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 in an amount of not less than one million dollars on account of an accident involving injuries, including death, to one or more persons and property damage insurance in an amount of not less than one million dollars, or a combined single limit of one million dollars provided however, that this insurance requirement shall not be construed to limit permittee's indemnification obligations to the above-required limits of insurance. Such insurance shall also name the City of Akron and its officers and employees as an additional insured, and shall further provide that the policy shall not terminate or be canceled prior to the expiration date of the permit without thirty days' written notice to the Director of Public Service.

E.

Permit Fee. An application for a permit shall be accompanied by a fee of three hundred dollars for each sidewalk café for which a permit is desired.

F.

Permit Duration. Permits shall be valid for a twelve month period.

G.

Operation of Sidewalk Cafés. The operation of a sidewalk café shall be subject to the following conditions and restrictions:

1.

Sidewalk cafés shall not obstruct emergency exits or fire standpipes;

2.

Sidewalk cafés shall not occupy any portion of the street or any area within forty-four inches of the curb;

3.

Sidewalk cafés shall not be permitted within six feet of any fire hydrant, within five feet of any driveway, within three feet of any sidewalk, handicap ramp, or within that portion of the sidewalk parallel to an area designated for parking, handicapped parking or commercial loading and unloading; and

4.

Sidewalk cafés shall not be permitted at any location where the clear, continuous, unobstructed sidewalk for the passageway of pedestrians is reduced to less than six feet.

H.

Permits. The Director of Public Service may issue permits authorizing the operation and placement of sidewalk cafés at permitted locations on sidewalks in the city, subject to the provisions of this section.

1.

Permits shall be issued in such a manner as to be distinguishable from liquor permits issued by the State of Ohio and shall be posted in a conspicuous location in a window or other readily visible location of the frontage of the applicant's business establishment. Each permit shall contain the following information:

a.

The name and address of the permittee;

b.

A description of the permitted location;

c.

A description of the tables, chairs and other structures;

d.

A statement indicating whether the permittee is authorized by the State of Ohio to serve alcohol in the outdoor restaurant;

e.

The expiration date of the permit; and

f.

Any other information the Director of Public Service deems desirable.

2.

The sidewalk café shall be placed only on the location set forth in the permit.

3.

Permittees and their agents shall obey any order of a police officer or other emergency personnel to remove their tables, chairs and other structures from the public right-of-way if necessary to avoid congestion or obstruction in an emergency.

4.

Permittees shall maintain all required licenses and permits.

5.

Permittees and their agents shall be responsible for maintaining all sidewalk café structures and associated equipment in good repair, free of corrosion and in a safe, sound and nonhazardous condition.

6.

Permittees and their agents shall be responsible for keeping the general area around the permitted location free of litter. Permittees and their agents shall provide and maintain a suitable container for the placement of paper, wrappers and other similar items used by customers and others within the permitted area. Permittees and their agents shall clear and maintain any sidewalks free of snow and ice within their cafés.

7.

All outdoor cooking shall comply with all applicable code provisions.

8.

No permit shall be transferable except to a subsequent owner of the business covered by the permit.

I.

Permit Suspension and Revocation. The Director may suspend or revoke the permit of any permittee if the permittee or his agent fails to abide by the rules and regulations established by the Director of Public Service, any provisions of these Codified Ordinances or state or federal law, rule or regulation or if any license required by state, federal or local law or regulation has been suspended or revoked.

The Director shall give written notice of suspension or revocation of the permit to the permittee or his agent stating the reasons therefor. If the reason for the suspension or

revocation is that a required license has been suspended or revoked or that the permittee does not currently have an effective insurance policy as required by subsection D, the action shall be effective upon giving such notice to the permittee or to his agent. Otherwise, such notice shall contain the further provision that the action shall become final and effective ten days thereafter unless, within five days of receipt of notice, the permittee requests a hearing before the Director. The Director shall forthwith hold the requested hearing, at which time the permittee shall be afforded the opportunity to give his version of the facts which gave rise to the Director's action. After the hearing the Director shall determine whether to proceed with the action or to rescind it.

The action of the Director may be appealed to the Board of Building Appeals.

J.

Removal of Tables, Chairs and Other Associated Equipment. Any tables, chairs and other associated equipment placed in a public sidewalk, court, alley, street or other public right-of-way outside any permitted location may be seized and disposed of or impounded at the discretion of the Director. If such property is impounded, the owner of the property shall pay an impoundment fee set by the Director covering the actual cost to the city of transporting and storing such tables, chairs or other associated equipment.

Any tables, chairs and other associated equipment placed within a permitted location may be seized and impounded, without prior notice, if the tables and chairs and other associated equipment are placed in the public right-of-way in such a place or manner as to pose an immediate and serious danger to persons or property or if the condition of the tables, chairs and associated equipment renders them unsafe, unsound or hazardous so as to pose an immediate and serious danger to persons or property. After impoundment, the city shall promptly notify the permittee who shall have the right to request an informal hearing before the Director within ten days after such notification to appeal the seizure. The permittee shall pay an impoundment fee set by the Director covering the actual cost to the city of transporting and storing such tables, chairs or other associated equipment. If the permittee has failed to recover the property within five business days of seizure, the property may be disposed of by the Director. The impoundment fee shall be imposed whether the property is recovered or not.

K.

The permittee shall be responsible for all charges which may now or hereafter be imposed or levied upon the sidewalk café and the services provided in connection therewith.

L.

Penalty. Whoever violates any provision of this section shall be guilty of a misdemeanor of the third degree. Each day during which noncompliance or a violation continues shall constitute a separate offense.