

Chapter 8.08

Sidewalk Cafes

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Section 8.08.010 Purpose.

The purpose hereof is to permit and encourage sidewalk vending 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. 89-33 § 2, 1989)

Section 8.08.020 Permit required.

Private commercial use of public sidewalks for the purpose of operating a sidewalk cafe in the City is prohibited unless a permit is obtained from the Building Official as provided herein.

(Ord. 89-33 § 3, 1989)

Section 8.08.030 Definitions.

- 1) 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.
- 2) 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.
- 3) 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 alcohol beverages covering such sidewalk area, the service of such beverages, or providing seating for patrons in the adjacent sidewalk area.
- 4) Vision clearance triangle - A vision clearance triangle is that area which abuts streets, alleys or driveway intersections whether on the subject property or the abutting property. The vision clearance triangle is determined by measuring 25 feet in both directions from the intersecting curb lines along the edge of the rights-of-way and/or the edge of driveways and alleyways.

(Ord. 98-34 § 2, 09/08/98; Ord. 93-24 § 1, 10/18/93; Ord. 89-33 § 4, 1989)

Section 8.08.040 Permit fee.

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The fee for the permit described in Section 8.08.020 shall be as specified in Chapter 8.03.
(Ord. 89-33 § 5, 1989)

Section 8.08.050 Permit application.

1) Application for a permit to operate a sidewalk cafe shall be made at the Development Assistance Center on a form provided by the Building Official. Application for a permit will minimally contain:

- a) A completed application;
- b) A diagram of the area for sidewalk cafe use, with dimension shown;
- c) A certificate of insurance and endorsement form; and
- d) The location and description of the tables and materials requested to be in the right-of-

way.

2) Information shall be provided as required by the Building Official to carry out the purpose hereof.

(Ord. 98-34 § 2, 09/08/98; Ord. 89-33 § 6, 1989)

Section 8.08.060 Notice required.

Prior to rendering a decision, the Building Official 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 Development Assistance Center within ten (10) calendar days from the date of mailing the notice.

(Ord. 98-34 § 2, 09/08/98; Ord. 89-33 § 7, 1989)

Section 8.08.070 Location rules and review criteria.

1) The Building Official shall review the application for its compliance with the following criteria:

a) The operation of a sidewalk cafe is limited to structures which are sited within 10 feet of a public sidewalk, and which are located in one of the following development districts: Central Business (CB); Central Business Fringe (CBF); Shopping Area (SA); or Shopping Area -University (SA-U); Mixed Use Employment (MUE); Mixed Use Commercial (MUC).

b) The operation of a sidewalk cafe shall be located such that there is at least six (6) feet from the outermost edge of the sidewalk cafe to the street curb, that also includes a minimum of three (3) feet of clear and unobstructed passageway between the sidewalk cafe tables, chairs and barriers and tree wells, bike racks, lamp posts, sign posts and any other fixtures or obstructions.

c) Additional restroom facilities may be required if the additional seating capacity created by a sidewalk cafe causes an increase in the required fixtures under table No. 5-E of the Oregon Structural Specialty Code.

d) The location of the sidewalk cafe operation shall be as approved by the Building Official.

2) The Building Official will forward all applications for review by the Police Chief or designee for any business who holds a valid liquor license, or in which alcoholic beverages are intended to be served.

a) The Police Chief or designee upon review of application will sign the application for concurrence with granting the license, or,

b) Submit a memorandum of concerns to be forwarded to City Council for consideration, signing the application in a location that acknowledges review of application.

(Ord. 98-34 § 2, 08/17/98; Ord. 89-33 § 8, 1989)

Section 8.08.080 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 the Oregon Tort Claims Act. The permittee shall name the City of Corvallis 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 therein, 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. 98-34 § 2, 09/08/98; Ord. 89-33 § 9, 1989)

Section 8.08.090 Forms and conditions of permit.

The permit issued shall be in a form deemed suitable by the Building Official. In addition to naming the permittee and other information deemed appropriate, the permit shall contain the following minimum conditions.

- 1) Requirements for all sidewalk cafes:
 - a) Each permit issued shall terminate December 31st of the year in which issued.
 - b) The permit issued shall be personal to the permittee only and is not transferable in any manner.
 - c) The permit may be temporarily suspended by the Building Official if the public interest requires use of the right-of-way for a public event, construction, repair, or any other purpose.
 - d) The permit is specifically limited to the area approved or as modified by the Building Official, 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.
 - e) The operation of a sidewalk cafe shall be located such that there is at least six (6) feet from the outermost edge of the sidewalk cafe to the street curb, that also includes a minimum of three (3) feet of clear and unobstructed passageway between the sidewalk cafe tables, chairs and barriers and tree wells, bike racks, lamp posts, sign posts and any other fixtures or obstructions.
 - f) The sidewalk and all things placed thereon 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 48 hours, all the tables and materials shall be removed therefrom. The operation of a sidewalk cafe requires that trash containers be provided on site.
 - g) All required building modifications or parking improvements shall be completed prior to the commencement of the operation of the sidewalk cafe.
 - h) No signs shall be attached to any furniture or any other structure related to the operation of the sidewalk cafe.
 - i) The permittee shall notify the Building Official when operation of the sidewalk cafe commences.
 - j) No use of City fixtures will be allowed.
 - k) Sidewalk cafes shall not occupy or obstruct the visual clearance triangle.
 - l) Council 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.
- 2) Businesses which intend to serve alcoholic beverages at the sidewalk cafe must additionally meet the following requirements:
 - a) The business shall hold a valid Oregon Liquor Control Commission liquor license.
 - b) 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.
 - c) Sidewalk cafes where alcoholic beverages are served and consumed require

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supervision by employees of the license business, as required by the Oregon Liquor Control Commission liquor license.

d) Each business serving alcoholic beverages at the sidewalk cafe is required to utilize solid or semi-solid portable fencing, planters, or similar approved barrier of thirty-six (36) inches to forty-eight (48) inches in height, to clearly identify the licensed space.

e) All service and consumption of alcoholic beverages at sidewalk cafes will discontinue by 11:00 pm.

f) All alcoholic beverage service providers must also provide food service in the licensed area.

g) Sidewalk cafes shall designate one access/exit point for the exterior service area and this point shall be located near a business entrance; and shall post signage at the access/exit point and enclosed area prohibiting the removal of alcoholic beverages from the licensed sidewalk cafe area.

Ord. 98-36 § 1, 09/08/1998; Ord. 98-34 § 2, 09/08/1998; Ord. 93-24 § 2, 10/18/93; Ord. 89-33 § 10, 1989)

(98-34, Amended, 09/08/1998; 98-36, Amended, 09/08/1998)

Section 8.08.100 Denial, revocation or suspension of permit.

1) The Building Official may deny, revoke, or suspend the permit upon finding that any provision herein or condition of approval will be or has been violated.

2) Upon denial, revocation, or suspension the Building Official 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 10 calendar days after the notice is issued, for a hearing by the Building Official. Upon hearing the matter, the Building Official shall render a final decision concerning the permit.

(Ord. 89-33 § 11, 1989)

Section 8.08.110 Consumption of alcoholic beverages.

The provisions of Section 5.03.040.010.06 notwithstanding, patrons, while seated at a sidewalk cafe licensed to sell alcoholic beverages, may possess and consume such beverages.

(Ord. 98-34 § 2, 09/08/98; Ord. 93-24 § 3, 10/18/93; Ord. 92-27 § 2, 1992)

Section 8.08.120 Penalties.

Any violation hereof is an infraction punishable by a fine of up to \$500. A violation may be prosecuted as a Class A infraction under the procedures of ORS 153.110 to 153.310. The City Manager or person designated by the City Manager is authorized to issue a citation to any person violating the provisions herein.

(Ord. 89-33 § 12, 1989)