

Chapter 12

SIDEWALK CAFÉ REGULATIONS

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Sec. 12-1. Definitions.

- A. *Full Service Restaurant.* An establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public primarily for on-premises consumption, or an establishment where not less than forty percent (40%) of its consumable purchases are derived from the sale of food and/or non-alcoholic beverages. The full service restaurant shall also have a dining room or rooms, kitchen, and cooking facilities for preparation of food (including stoves, ovens, and/or refrigeration equipment).
- B. *Licensed Area.* The area or location upon public property and/or public right-of-way and abutting an eating and/or drinking establishment within which a licensed Sidewalk Café may operate.
- B. *Sidewalk.* Sidewalk means that portion of a street between the curb or lateral lines of a roadway or other public right-of-way and the abutting property lines intended for use by pedestrians.
- C. *Sidewalk Café.* An eating and/or drinking establishment which serves food and/or beverages on public property or within a public right-of-way

as part of its business as an eating and/or drinking establishment, pursuant to City license.
 (Ords. 2007-09, 08/20/2007; 2010-12, 06/07/2010)

Sec. 12-2. Permit Required.

It shall be unlawful for any person to operate a Sidewalk Café without a Sidewalk Café license as provided by this Chapter. A Sidewalk Café license shall not grant any person a property right or property interest in the Licensed Area, any public property, or right-of-way.
 (Ord. 2007-09, 08/20/2007)

Sec. 12-3. Application for Sidewalk Café License.

- A. A person desiring to operate a Sidewalk Café shall make written application to the Clerk upon forms supplied by the City.
- B. A Sidewalk Café license shall be issued for one (1) year, commencing on the date of license issuance and ending at midnight on December 31st of the year of issuance.
- C. An annual fee to be paid upon issuance of a Sidewalk Café license shall be set from time to time by Resolution duly passed and adopted by the Council.
 (Ord. 2007-09, 08/20/2007)

Sec. 12-4. Standards for Issuance of License.

- The Clerk shall issue a permit upon a finding that:
- A. The proposed Sidewalk Café will not unreasonably interfere with pedestrian traffic and/or other uses of the Licensed Area and/or public rights-of-way.
 - B. The proposed Sidewalk Café shall maintain an unobstructed pedestrian access on the sidewalk of not less than four contiguous feet (4’).
 - C. The applicant has met all other applicable provisions of this Code as well as the laws of the United States of America, the State of Idaho, and Latah County, Idaho, including, where applicable, licenses to serve alcohol.

- D. A risk assessment has been performed by the North Central District Health Department on the applicant’s business and the applicant has a current State license authorizing the applicant to serve food and beverages, where such license is required.
- E. The licensee shall demonstrate that current, paid up, general liability insurance has been obtained for each Licensed Area in an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limits. Such general liability insurance policy shall be primary to any other insurance related to the operation of the Sidewalk Café and to that of any potential party subject to a claim related to these events. The City shall be named as an additional insured on any insurance policy of the licensee relating to the operation of the Sidewalk Café. All policies of insurance shall require ten (10) days notice to City by certified mail of any cancellation or change affecting any interest of coverage. A current certificate of insurance shall be kept on file with the Clerk at all times.
- F. A licensee who intends to serve alcoholic beverages or allow such to be consumed in the Sidewalk Café shall meet the following additional requirements:
 - 1. The licensee shall have a valid State, County, and City alcohol license for lawful service of beer and/or wine and/or liquor.
 - 2. Service and/or consumption of alcohol shall only occur in the Licensed Area.
 - 3. No taps, kegs, coolers, or other alcoholic beverage storage devices related to the Sidewalk Café are allowed to be stored in the public right-of-way; and
 - 4. The licensee shall amend its existing State, County, and City alcohol license information to include the Licensed Area.
 - 5. Delineation of the Licensed Area shall consist of a non-permanent

physical barrier such as a railing, potted plants, decorative chain, fence, rope or other physical barrier, as required and approved by the City.

6. The licensee shall demonstrate that the licensee has current, paid up, Liquor Liability Insurance for each Sidewalk Café in an amount not less than One Million Dollars (\$1,000,000) combined single limits. Such insurance shall be primary to any other insurance related to the alcohol service by the Sidewalk Café and to that of any potential party subject to a claim related to these events. City shall be named as an additional insured on any such insurance policy of the licensed vendor or for the events described herein. All policies of insurance shall require ten (10) days notice to City by certified mail of any cancellation or change affecting any interest of coverage. A current certificate of insurance shall be kept on file with the Clerk at all times.

(Ord. 2007-09, 08/20/2007; 2010-12, 06/07/2010)

Sec. 12-5. Liability and Hold Harmless Agreement.

Every licensee shall hold City, its agents, servants, employees, officers, and/or contractors harmless, and shall indemnify and defend any claim filed against City, its agents, servants, employees, officers and/or contractors for any activities associated with the Sidewalk Café, including the actions and/or inactions of every person, licensee, owner, director, employee, or agent.

(Ord. 2007-09, 08/20/2007)

Sec. 12-6. Conditions of License.

- A. A Sidewalk Café license shall not be issued in any zoning district other than the Central Business (CB) Zoning District.
- B. A Sidewalk Café license shall not be assigned to any other person or place.
- C. If liquor is served or allowed to be consumed in a Licensed Area, the

establishment shall be a “full service restaurant”, as that term is defined in this Chapter.

- D. The Sidewalk Café shall be specifically limited to the Licensed Area shown in the Sidewalk Café license and accompanying diagram and shall take up no more than fifty percent (50%) of the unobstructed portion of the abutting Sidewalk.
- E. The proposed Sidewalk Café shall maintain an unobstructed pedestrian access on the sidewalk of not less than four contiguous feet (4’).
- F. The Sidewalk Café may operate only between the hours of 6:00 a.m. and midnight local time, and only during hours the abutting eating and/or drinking establishment is in operation.
- G. No Sidewalk Café located within Friendship Square shall operate during Farmer’s Market hours of operation.
- H. The Licensed Area, and all items placed within it, shall at all times be maintained in a clean and orderly condition.
- I. Only those items authorized by the Sidewalk Café license and shown on the diagram may be stored in the Licensed Area when the Sidewalk Café is not in operation.
- J. The Licensed Area shall be returned to the condition it was prior to the Sidewalk Café license agreement permitting operation of the Sidewalk Café.
- K. The Sidewalk Café shall conform to any additional requirement established from time to time by Resolution duly passed and adopted by the Council.

(Ord. 2007-09, 08/20/2007; 2010-12, 06/07/2010)

Sec. 12-7. Denial, Revocation or Suspension of License.

- A. In the event that a licensee or applicant has violated or cannot meet a condition of approval or a provision of this Chapter, the Clerk may seek the denial, revocation, or suspension of the license.

- B. Prior to the denial, revocation, or suspension of a license as required herein, the Clerk shall provide written notice of such denial, revocation, or suspension to the licensee or applicant, as the case may be. Such written notice shall state the reason(s) for such denial, revocation, or suspension, and shall state that such licensee or applicant may request an appeal hearing as provided herein. Notice of denial, revocation, or suspension is effective on the date such notice is placed in a mailbox controlled by the United States Postal Service. Failure by the City to give notice as provided herein shall not establish a right to a license under this Chapter.

(Ord. 2007-09, 08/20/2007)

Sec. 12-8. Appeals.

- A. Any person aggrieved by the action of denial, suspension or revocation of the license by the Clerk shall have the right of appeal to the Council.
- B. Such appeal shall be taken by filing with the Clerk written notice thereof within ten (10) business days after the denial or the entry of the order of suspension or revocation. The notice of appeal shall specify an address at which the person appealing may be given notice of hearing on the appeal.
- C. At the appeal hearing before the Council, the applicant or person appealing shall be entitled to appear in person and offer evidence pertinent to the denial, suspension or revocation or may appear through legal counsel. The Clerk, Chief of Police, and/or legal counsel for the City shall likewise be entitled to appear at the hearing and offer evidence in support of the denial, order of suspension or revocation. Failure by applicant, person appealing, or their representative to appear before Council at the time scheduled to hear such an appeal shall result in the automatic denial of such appeal.

- D. The Council shall determine whether the denial, suspension or revocation shall be sustained and shall make a final reasoned statement in writing within fifteen (15) business days following the close of the hearing.

(Ord. 2007-09, 08/20/2007)

Sec. 12-9. Penalties.

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished pursuant to this Code and the Idaho Code.

(Ord. 2007-09, 08/20/2007)