

# Memorandum



Date: January 7, 2026

To: City of Buchanan Planning Commission

From: Tony McGhee

Subject: Proposed Ordinance Allowing Use of Public Sidewalks for Business Activities via Permit

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## **Background and Purpose**

Over the past several months, several downtown restaurants and bars have expressed interest in offering outdoor seating for customers on adjacent public sidewalks. This interest reflects broader trends seen in many downtowns and aligns with the City's goals of supporting local businesses and enhancing downtown vitality.

For establishments serving alcohol, the Michigan Liquor Control Commission (MLCC) requires that any outdoor seating area be specifically authorized by the local municipality in order for it to be included within the establishment's approved service area. Traditionally, many communities have satisfied this requirement through individual license or lease agreements between the municipality and each business.

## **Proposed Approach**

After discussing this issue with the City Attorney, staff recommends a more efficient and cost-effective approach, authorizing sidewalk use through a municipal permit process established by ordinance, rather than individual license agreements. This approach provides several advantages:

- Reduces administrative time and legal costs associated with drafting and approving separate agreements for each business.
- Creates a consistent, transparent framework applicable to all eligible businesses.
- Allows the City to establish clear standards and conditions while retaining full control of the public right-of-way.
- Provides flexibility to modify or revoke permissions as needed for public safety, construction, special events, or policy changes.

### **Key Elements of the Ordinance and Permit Process**

The proposed ordinance would:

- Allow the temporary use of designated public sidewalk areas for business activities, such as outdoor dining, subject to City approval.
- Require businesses to apply for and receive a permit prior to use.
- Ensure that a minimum clear pedestrian pathway is maintained at all times to meet ADA accessibility and public safety standards.
- Require permit holders to maintain the area in a clean and orderly condition.
- Allow the City to impose reasonable conditions, including hours of operation, seasonal limitations, and removal requirements.
- Require proof of insurance and indemnification of the City, as appropriate.
- The permit is revocable, does not create a property interest, and does not constitute a lease of public property.

For businesses serving alcohol, the approved permit would satisfy the MLCC requirement for municipal authorization, allowing the outdoor area to be included within the establishment's licensed service area.

### **Recommendation**

No action is required at this time, as this item is being presented for informational purposes only. The item will be brought back before the Commission for its first public reading at the February 9th meeting. A draft of the ordinance proposed for consideration is included as Attachment A for reference.

# Attachment A



## **Chapter 18**

### **Article \_\_\_\_**

#### **Sec. \_\_ - \_\_. - Definitions**

The following definitions apply to the provisions of this ordinance:

- (a) *Café*. The word “café” shall mean an outdoor sidewalk café that serves food or beverages in accordance with this ordinance and all other applicable federal, state and county laws and licensing requirements. A “café” shall not include any businesses or establishments that are subject to Michigan Regulation and Taxation of Marihuana Act or Michigan Medical Marihuana Act or any business engaged in the sale, consumption or use of tobacco or vaping products or equipment and such businesses or establishments shall not be permitted under this Article.
- (b) *Downtown Zoning Districts*. The phrase “downtown zoning districts shall mean the zoning districts as listed in the Unified Development Code Downtown Zone.
- (c) *Sidewalk Café*. The phrase “sidewalk café” shall mean a café using any outdoor grouping of non-permanent tables, chairs, and other appurtenances related to and used for the sale of food and beverages on a City owned sidewalk that is not fully enclosed by a structure operated in conjunction with a restaurant/beverage service having frontage immediately adjacent to the City owned sidewalk.

#### **Sec. \_\_ - \_\_. - Permits**

No individual, entity or business shall operate a sidewalk café or provide any other outdoor food or beverage service sales or outdoor customer use or furnishings without a permit issued pursuant to this Ordinance. Prior to operating any outdoor café, a person, firm, or entity (“owner or operator”) shall file an application for a permit with the City that will be reviewed in accordance with this ordinance. Permits shall not be transferred, assigned, or sublet by the owner or operator to any party. Permits will only be issued for areas located within the D Downtown Zoning Districts identified in this Article. The application for permit must be filed with the City Clerk at least forty-five (45) days in advance of the proposed commencement of operations and shall, in addition to any other information required by the City, require all of the following:

- (a) The full name, telephone number, and business address of all persons or entities that will be involved in the ownership and operation of the sidewalk café.
- (b) The address of the street frontage property on which the sidewalk café will be located or the property to which the sidewalk café is adjacent.

- (c) A statement of the operator's proposed time periods of days and hours of operation, as well as the proposed types of activity.
- (d) An accurate, scale diagram showing the sidewalk area to be used by a sidewalk café the types of outdoor furnishings to be used.
- (e) Such additional information as the City determines needed to ensure compliance with this ordinance and all other applicable City ordinances or state law.

**Sec. \_\_-\_\_. - Requirements for issuance of permit and operation of sidewalk café.**

- (a) The City will only issue a permit authorizing the sidewalk café if the applicant files a complete application and café use and operation meets the requirements of this Article. The permit may include restrictions necessary to protect the public safety, health and welfare. The application and application fee must be submitted to the City Clerk in advance of the commencement of any sidewalk café operations pursuant to the provisions of the permit application. The application must be completed and signed by an adult eighteen (18) years of age or older.
- (b) An owner or operator shall not operate a sidewalk café without a current permit granted by the City pursuant to this Article and shall comply with all the following requirements:
  - (1) An owner/operator must complete and meet all of the conditions of a permit application in order to obtain a permit under this Article. The permit application shall be in such a form as is approved by resolution of the City Commission. Sidewalk café uses, products and services shall be limited to those listed on the permit application. A permit issued under this Article shall be valid only from April 1 through November 1 of each calendar year, unless extended by written notice issued by the City Manager, and must be renewed annually.
  - (2) The tables, chairs, and other appurtenances of the sidewalk café shall be located in the space approved by the City immediately adjacent to the frontage of the same building where a licensed food, beverages or alcohol service establishment is located, or in the case of a corner parcel, immediately adjacent to the building's non-frontage sidewalk of the building containing a licensed food, beverages and/or liquor service. The owner or operator of a licensed food, beverages or alcohol service establishment must be the owner or operator of the sidewalk café authorized under this Section. Only one (1) sidewalk café operation per business frontage is permitted. Sidewalk café operation shall not be conducted in any location other than the site approved by the City.

- (3) The tables, chairs, and other appurtenances of a sidewalk café must be placed and used in a way that does not encroach upon any roadway or parking spaces, does not hinder safe pedestrian use of the sidewalks and that does not block ingress or egress to and from any building and shall only be allowed to be placed on sidewalks from April 1 to November 1 of each year unless extended by written notice of the City Manager. There shall be provided, at all times, an unobstructed straight sidewalk aisle for pedestrian use of not less than five (5) feet in width, including intrusions of umbrellas and other covers except for awnings that comply with the City's Code of Ordinances, unobstructed vehicular traffic on all roadways, unobstructed vehicle parking, and must comply with all federal and state disabilities acts requirements. All usages shall comply with the corner lot clear sight provision of the Unified Development Code, as applicable. The City reserves the sole discretion to determine whether or not to issue a permit under this Article based on the dimension of the sidewalk café use requested; requirements of federal and state law and regulations; the volume of pedestrian traffic; the placement, nature and extent of intrusion of streetscape elements and furnishings; landscaping, parking spaces; the location of building entrances or gathering places; emergency exits; the location and volume of activity of waiting areas for business patrons; fire suppression and public safety.
- (4) An owner or operator granted a permit under this Article shall not erect any structures or in any manner affix or anchor to any light poles, traffic control devices, City-owned sidewalk or right-of-way any tables, furnishings, chairs, umbrellas, coverings, awnings and all other appurtenances related to or used for the operations of a sidewalk café. Sidewalk café use or operation shall not disrupt City sidewalk or right-of-way drainage or impound water. Food or beverage preparation shall not occur in any City sidewalk or right-of-way.
- (5) An owner or operator granted a permit under this Article shall not place any fencing, barriers, waste baskets or containers, screens, wires, extension cords, conduit, or electric cables on or across any City-owned sidewalk or right-of-way, unless approved by the City in writing and in advance of installation.
- (6) An owner or operator granted a permit under this Article shall not display any signs on and shall not use any signs, except sandwich boards as permitted in the Unified Development Code, broadcasting, announcements, noise, sound amplification, sounds or live or recorded music as part of or in conjunction with the operations of a sidewalk café.

- (7) The owner or operator of the sidewalk café shall continually keep the area in and about the sidewalk café and adjacent parking spaces orderly, free of debris and litter, and shall clean and free of all refuse generated by the operation of the sidewalk café.
- (8) The operation of the sidewalk café shall occur only during the normal business hours of 6:00a.m. to 10:00p.m of the licensed food and/or beverages or liquor service establishment located within the building owned or leased by the owner or operator the sidewalk café. Outdoor Sidewalk Food or Beverage Café may be serviced by waitstaff between the hours of 6:00 a.m. and 10:00 p.m. daily. Products or services shall not be sold or provided to persons in a roadway, the occupants of motor vehicles, or any person not seated in the sidewalk café operation.
- (9) The owner/operator shall comply with all permit restrictions and all applicable requirements of City ordinances and state law relating to food and beverage services and outdoor business operation. The owner or operator shall, as required by the permit application, agree to indemnify and hold harmless the City from all claims for damages, injuries and death and shall maintain insurance coverage of types and amounts set by resolution of the City Commission in policies or endorsements that list the City as an additional insured. A permit shall not be issued until the City Clerk receives written proof of insurance coverages required under this Article or in the permit application in forms satisfactory to the City.
- (10) The owner or operator shall reimburse the City for the repair of any damage to a sidewalk or City right-of-way as a result of the placement, maintenance, or removal of any tables, chairs, and other appurtenances of the sidewalk café.
- (11) Any sidewalk café operations involving the service or consumption of alcoholic beverages shall comply with the requirements of the Michigan Liquor Control Commission, and all City ordinances and rules and regulations promulgated under City ordinances. The service, consumption, possession or use of alcoholic beverages shall only be permitted in areas allowed by City ordinances.
- (12) Sidewalk café operations shall not be conducted within five hundred (500) feet of any school, church, synagogue or place of worship during hours of operation or services or within one-hour of services; courthouse; police station; or other public location unless specifically authorized pursuant to the terms of the permit. In addition, the City manager shall have discretion to designate such streets, sidewalks, parts of streets, or sidewalks, districts or areas where it shall be unlawful for any operation of a sidewalk café, such designation to be made based upon motor vehicle traffic or pedestrian conditions, character of the neighborhood, public safety or if the conduct of such business constitutes a public nuisance.

- (13) The owner or operator is solely responsible for the installation, removal, security and maintenance of all tables, chairs, furnishings umbrellas, coverings, awnings and all other appurtenances or equipment related to or used for the operations of a sidewalk café.
- (14) Any person requesting issuance of a sidewalk café permit shall pay the full amount of the permit fee as established by resolution adopted by City Commission within five (5) business days of the date of permit approval.
- (15) The applicant/owner/operator must be current on all payment due the City, including but not limited to all taxes, leases, fees, fines, assessments, or penalties.

**Sec. \_\_ - \_\_ Applications and Issuance of permits.**

The City Clerk will receive and process all permit applications. Subject to the discretion of the City Manager set out in this Article, permits will be issued for applications that conform to the requirements of this Article and conditions set out in the application form.

**Sec. \_\_ - \_\_. Violations, Revocation, Penalties, Appeals.**

- (a) The City Clerk or Chief of Police is authorized to immediately revoke any permit issued under this Article and terminate all sidewalk café operations for violation of the provisions of this Article, or including, but not limited to the following:
  - (1) The applicant/owner or operator violates any provision of this Article, any provision of the City's Code of Ordinances, any requirements of the permit application, or violates any state, county or federal laws, rules or regulations.
  - (2) The applicant/owner/operator made any false statement in the permit application, is in default of any of the agreements or requirements set out in the permit application or has otherwise become disqualified for any required issuance coverages.
  - (3) The owner/operator acts in a manner contrary to the public health, safety or welfare of the public.
- (b) In addition to any other sanctions available under this Article, any violation of this Article shall constitute a civil infraction subject to a fine of five hundred dollars (\$500) plus costs and fees incurred by the City per occurrence. Equitable relief may be requested and ordered as a court may deem appropriate. Each day of violation and each violation shall constitute a separate violation.
- (c) A City police official, building code enforcement officer, city staff appointed by the City Manager, or the City Clerk are authorized to issue a written citation for violation of the Article based on a determination that probable cause exists for the violation. The official



issuing the citation shall provide the owner or operator with written notice of the revocation by personal service or by first class mail at the address listed on the permit application. The citation shall also inform the owner or operator of its right to appeal. The filing of an appeal shall not stay the enforcement of any permit revocation.

(d) An Applicant, owner or operator may appeal a permit denial, a permit revocation, or imposition of a fine by filing a written appeal with the City Clerk's office within fourteen (14) calendar days of the date appearing on the notice of permit denial or written citation. Failure to file the written appeal with the City Clerk within the fourteen (14) calendar day period shall constitute a permanent waiver of appeal. A hearing on a timely appeal shall be held by the City manager or the City manager's designated representative within ten (10) business days of the date of the filing of the appeal.

**Sec. \_\_- \_\_. Conflicting ordinances or resolutions.**

All ordinances or resolutions or parts of ordinances or resolutions in conflict with this Article or inconsistent with the provisions of this Article are hereby superseded by this Article and its provisions to the full extent necessary to give this Article full force and effect.