
Sec. 14-1. Obstructions generally; sidewalk cafes.

- (a) *Permit to obstruct.* No person shall obstruct any of the streets or alleys of the town by any article, material or device or by the exhibition or storage of any property or materials thereon unless such person has first obtained a permit therefor from the town manager or designee. Such a permit may be issued where the safety of the public is adequately protected.
- (b) *Displays.* It shall be unlawful for any person to use any portion of the public sidewalks in the town for the purpose of displaying, exhibiting or offering for sale any goods, wares, merchandise or other articles; except that merchants dealing in seasonal flower plants, vegetable plants and ornamental shrubbery may display the same on shelves or stands extending not more than eighteen (18) inches in front of the building line of the place of business. Such displays shall be permitted only where the sidewalk is of adequate width, and provided that such displays shall be removed from in front of the place of business each day by or immediately after the close of the business day.
- (c) *Sidewalk cafes.* Notwithstanding any other provision of this chapter and subject to the regulations and specifications contained in this section, sidewalk cafes shall be allowed within the central business district upon issuance of a permit from the town manager or designee. The term "sidewalk cafe" or "cafe" shall mean an outdoor or semi-enclosed dining area directly adjoining and part of a restaurant within the central business district and located on a public sidewalk, alley, or right-of-way, where customers of the restaurant sit and dine.
- (1) *Regulations.*
- a. Every cafe shall be temporary in nature and designed so that the entire cafe structure and its improvements, including chairs, planters, fences, railings, etc., can be removed during periods of non-use.
 - b. No portion of a sidewalk cafe may be used for any purpose other than dining or circulation.
 - c. Cafes shall comply with all applicable federal, state, and local laws and regulations, and shall be inspected and approved by the zoning administrator prior to beginning actual operation.
 - d. Each cafe shall be adjacent to its adjoining restaurant facility.
 - e. The operation of sidewalk cafes shall be exempt from any additional off-street parking requirements as set forth in the zoning ordinance.
 - f. No cafe shall begin operations until the town manager or designee has reviewed and approved a certificate of insurance indicating that the business operator has general liability insurance coverage for personal injury and property damage in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate, with the town named as an additional insured. Such certificate shall further indicate that such coverage shall not be modified or canceled for any reason without the insurer providing the town with at least thirty (30) days' prior notice of such change(s).
- (2) *Specifications.*
- a. Sidewalk cafe operations shall be confined to a physical area approved by the town manager. No equipment or facilities of a cafe shall project beyond the designated perimeter of the cafe as approved. A cafe may not cover or extend beyond the frontage face of its adjoining restaurant facility. The size, scale, proportion, and overall design of the cafe shall be reviewed and approved by the town manager to ensure that the cafe is compatible with the public right-of-travel, adjoining buildings, streetscape, and character of the zoning district. The approved size of the

cafe will be based partly on the width of the sidewalk upon which it is located and the space available for pedestrian passage.

- **Maximum Encroachment:** The sidewalk café area shall not extend more than eight (8) feet from the edge of the restaurant facility (building face or property line, whichever is more restrictive) into the public right-of-way. This limit is established in recognition of the minimum five (5) foot pedestrian accessibility passage required under the Americans with Disabilities Act and Town standards.
- **Minimum Pedestrian Clear Zone:** A minimum 5-foot unobstructed clear zone must be maintained between the outer edge of the café area and the back of curb at all times, ensuring safe and accessible passage for all pedestrians including persons with disabilities. A 4-foot clear zone must be maintained around all other obstructions (e.g., trees, light fixtures, trash receptacles, signs). Failure to maintain required clearance may result in permit revocation.
- An aisle of at least 4 feet in width shall remain unobstructed at all active entrances, doorways, and emergency exits. Café areas shall not block alleyways.
- All furnishings must be located completely within the permitted café area and must not extend into the pedestrian clear zone, including umbrella spread.
- The café area must be contiguous to the applicant's business frontage. Use of space in front of an adjoining property requires written consent from that property owner.

Note: Where existing sidewalk width does not accommodate both the maximum 8-foot encroachment and the required 5-foot pedestrian clear zone, the pedestrian clear zone requirement shall take precedence and the permitted café area shall be reduced accordingly. The Town Manager or designee may impose additional restrictions based on site conditions, pedestrian volume, or public safety.

- b. The cafe operator shall be responsible at all times for the maintenance of an attractive, clean, and safe cafe area and for any necessary maintenance of the cafe area. All movable objects or equipment (e.g., tables, chairs, furnishings and fixtures) required to operate the cafe shall be removed from the cafe area and stored out of public view during the winter months and during nonbusiness hours. The cafe operator shall maintain the cafe area in a clean, orderly, and presentable condition before, during, and after all periods of operation, including upon vacating the space at the close of each business day. The cafe area shall be left free of debris, waste, and any evidence of cafe activity at the conclusion of each use. Failure to maintain the cafe area in accordance with this section, including failure to remove equipment or restore the area as required, shall constitute a violation subject to enforcement under Section 5(b) of this ordinance.
- c. Only the existing sidewalk surface is to be used for placement of removable cafe furnishings.
- d. Not more than one (1) well-marked entrance shall be permitted for each sidewalk cafe.
- e. The exterior furnishings of the cafe shall consist of temporary fixtures and decorative accessories. No permanent fixtures or improvements to town sidewalks shall be permitted.

(3) *Applications.*

- a. Any person or entity seeking to operate a sidewalk cafe shall file an application with the town manager or designee. The application shall be on a form supplied by the town.
- b. The application shall include three (3) copies of the applicant's sidewalk cafe plan/drawing, depicting the proposed cafe area boundary, placement of tables, chairs, signs, awnings and other

equipment or furnishings, and any other information deemed necessary by the town manager or designee.

- c. The town manager shall review and recommend approval, modification or denial of a sidewalk cafe permit ("permit"). If the application requires ARB approval for structural alterations, the town manager shall make such recommendation pending ARB action.

(4) *Permits.*

- a. Prior to final approval of a permit by the town manager or designee, the applicant shall certify that approval has been received from all relevant governmental authorities to begin operating, including the health department and the alcoholic beverage control board of the commonwealth.
- b. The town manager or designee shall have sole discretion to issue a permit to the owner of a restaurant/cafe business. The permit shall contain such terms and conditions as the town manager determines are necessary to protect the public health, safety and welfare.
- c. The permit, as issued and signed by the town manager or designee, shall contain a statement, executed by the permittee, that they agree to indemnify and hold harmless the town, its agents, and employees from any and all losses, damages, expenses, and claims arising out of the permittee's design, construction, operation, and maintenance of the sidewalk cafe.
- d. The initial permit issued by the town manager or designee shall be valid for one (1) year from the date of issuance.
- e. The town manager or designee may reissue permits for periods up to three (3) years, with such modifications as the manager or designee deems appropriate. If any application for renewal involves exterior alterations to the restaurant building, the applicant shall submit an application to the architectural review board.

(5) *Enforcement.*

- a. The town manager, or his designee, shall have the authority to inspect sidewalk cafes at any time and to take all necessary steps to enforce the provisions of this section. In the event that the town manager suspects that a sidewalk cafe operator has failed to comply with any provision of this section, any provision of its permit, or any other provision of law, the town manager or designee shall provide the operator with a written notice of violation, detailing the violations and giving the permittee a minimum of forty-eight (48) hours to remedy such violation(s).
- b. If a cafe operator fails to correct any violation specified in a notice of violation within the time period set forth herein, the town manager or designee shall have the right to revoke the operator's permit for cause upon an administrative hearing held with at least two (2) weeks prior written notice. The town manager's decision following such hearing shall be final.
- c. Any cafe operator whose permit has been revoked pursuant to subsection (b) above shall be disqualified from applying for or receiving a sidewalk cafe permit for a period of one (1) year from the date of revocation. Upon the conclusion of the disqualification period, the former operator may reapply for a permit in accordance with the standard application procedures set forth in this section; provided, however, that the town manager or designee may consider the prior revocation in evaluating any subsequent application.
- d. The town manager or designee shall have the right to terminate any permit for the convenience of the town upon ninety (90) days' prior written notice to the operator.
- e. The town manager or designee shall have the authority to require the permittee to suspend or limit cafe operations or to relocate or alter all or part of the cafe structure or improvements,

either temporarily or permanently, in order to facilitate or allow town operations upon public property.

- f. In the event of an emergency, the town manager or designee shall have the authority to require the immediate suspension of operations of a sidewalk cafe and/or the removal of all physical improvements constituting the cafe structure.

(Code 1981, § 14-8; Ord. No. 1998-15, 10-13-98)