

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

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(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. 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. 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 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 one million dollars (\$1,000,000.00) 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.

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.

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.

f. The furnishings of the cafe shall be placed under an awning attached to the building facade and with a minimum clearance of at least four (4) feet between the furnishings and the edge of the sidewalk or appropriate cover.

(3) Applications.

a. Any person or entity seeking to operate a sidewalk cafe shall file an application with the town manager. 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.

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, 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 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, 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 shall be valid for one (1) year from the date of issuance.

e. The town manager may reissue permits for periods up to three (3) years, with such modifications as the manager 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 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 violations(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 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. The town manager shall have the right to terminate any permit for the convenience of the town upon ninety (90) days' prior written notice to the operator.

d. The town manager 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.

e. In the event of an emergency, the town manager 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)