

Sec. 11-60. Sidewalk ~~cafes~~ **Permits**

- a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Sidewalk ~~café~~ permit means an area of **operation** located outside, but connected with, a part of, and adjacent to, a licensed business located in the **Central Business Commercial (CBC) District**.

- b) *Application for permit.* Notwithstanding the provision of sections 20-1 through 20-4, a licensed ~~restaurant~~ **business located in CBC** may apply to the city's office of downtown development for a ~~sidewalk café~~ **permit**. Such application shall contain at least the following information:

- 1) The name and address of the licensee;
- 2) The proposed location;
- 3) A description of the proposed use of occupancy of the public right-of-way; and
- 4) Such other information as may be reasonably required by the office of downtown development.

- c) *Condition for permit issuance.* Upon review and approval of the office of downtown development, the office of downtown develop shall issue a permit containing restrictions, terms, and conditions to ensure the proper use for the public property and to protect the health, safety, and welfare of the city, including the following:

- (1) The area permitted for the ~~sidewalk café~~ **permit** shall be so located and maintained that only the following portion of the sidewalk shall be used:
 - (a) Within the CBC district, no more than an eight-foot portion of the sidewalk measured from the ~~face of the restaurant~~ **building façade** perpendicularly toward the curb.
 - (b) Within the eight feet outside wall of the restaurant and perpendicular to the curb, a minimum of four feet shall be provided at all times from continuous **unobstructed** pedestrian traffic on the sidewalk between the ~~sidewalk café~~ **permit** and the curb or nearest obstacle.
 - (c) Permanent planting, city-owned waste receptacles, streetlight poles and other permanent fixtures along the sidewalk must be considered when determining the boundaries set forth in a permit.
 - (d) The office of downtown development shall serve as the review agency for site plans, specifications, fixtures, materials and annual renewals.
- (2) Any special construction proposed to encroach upon or occupy any of the public right-of-way shall be permitted only by prior approval of such plans by the **Public Works Director**.
- (3) The permit holder of ~~any sidewalk café~~ shall at all times ensure that:
 - (a) No encroachment on public rights-of-~~right~~ **way**, other than as stated in this section, shall be allowed to exist.

Commented [KL1]: Reworded from "permit to operate a sidewalk permit"

Commented [KL2]: Made bold the word "unobstructed" for emphasis

- (b) All restrictions, terms and conditions of any permit granted for sidewalk ~~cafes~~ **permit** shall be met.
 - (c) All general provisions and clean community regulations of the refuse collection and disposal provisions of chapter 19 are complied with.
 - (4) The issuance of a sidewalk ~~café~~ **permit** shall not be construed or interpreted to convey any property rights or any other rights not expressly set forth in such permit.
 - (5) Permits are renewed within the first quarter of each calendar year.
- d) *Regulations.* Except as otherwise provided, a sidewalk ~~café~~ **permit** operating in the city shall comply with the following:
- 1) *Limitations on area.* The area in which a sidewalk café permit is operated shall abut the outside front wall of the ~~restaurant~~ **building** of which it is an extension and shall not extend in either direction beyond the outside front wall of the ~~restaurant building.~~ **If establishment wishes to utilize table and chairs without fencing, they must be placed or kept within an area determined by a survey conducted by the City of Rome Public Works Department.**
 - 2) *Divider required.* ~~At restaurants where alcohol is served, the area permitted for a sidewalk café shall be separated from the remaining sidewalk area by a system of connected posts and railing that serves to contain crowds and maintain the boundaries of the café. The system shall be designed and constructed such that it resists movement and can be disassembled and removed, if necessary. The design must be included in the application and must be approved prior to issuance of a permit. Such divider shall not be less than three feet (36 inches) nor more than three feet six inches (42 inches) in height. All tables and chairs shall be located totally within the limits of the divider. It shall be the responsibility of the permit holder to maintain the divider in its exact approved location at all times.~~
 - 3) *Sanitation.* It shall be the responsibility and duty of the restaurant to which the sidewalk café permit is issued to maintain the area covered by the permit in a clean, neat, and orderly manner at all times. The area shall be cleared of all debris at all times. **No trash (including but not limited to litter, bottles, cigarette butts) shall be left overnight. Violations can result in revocation of sidewalk permit.**
 - 4) *Removal of furnishings and suspension of operation.* All tables, chairs, and dividers of a sidewalk ~~café~~ **permit** shall be removed from the public sidewalk area from time to time and outside operations suspended as required by the city for sidewalk cleaning or for such other purposes as the city may determine, in its sole discretion, for such purposes as, but not limited to:
 - a. Any permitted special event;
 - b. Any street, sidewalk, or utility construction;
 - c. Any emergency situations; or
 - d. The protection of the health, safety, and welfare of the public.
 - 5) ~~*Alcoholic beverages/open containers.* Sidewalk cafe permit holder shall be exempt from the restrictions on open containers if such establishment is otherwise licensed~~

to sell alcoholic beverages under the applicable laws and ordinances. All applicable provisions of chapter 3 (Alcoholic Beverages) of the code of the City of Rome and Title 3 (Alcoholic Beverages) of the official Code of Georgia shall be enforced regarding the sale, service, possession, and consumption of alcoholic beverages. The permit holder shall post approved signs designation the limits of the open container area:

- 6) *Allowable Furnishings.* Furnishings shall not be secured to lamp posts, streetlights, trees or any other public street fixtures. Furnishings may not be stacked or stored outside on the public right-of-way at any time.
 - a. *Fences.* A system of connected posts and railing, firmly secured, but temporarily moveable ~~shall~~ could serve to maintain the boundaries of the sidewalk café permit and allow visibility to the street patrons. Fences in any approved locations will in no instance be a visual barrier to vehicular traffic or impede driver visibility. Fence materials typically are to be discreet in color, design, materials and finishes and relatively transparent. **Installation of fence must be approved by Public Works and the downtown development authority board of directors and is a separate application process.**
 - b. *Menu boards and signs.* ~~Menu boards, both portable and on walls, shall be subject to sign permit approval and shall comply with the City Code.~~ **Each business within CBC is allowed a maximum of one menu board and should be no taller than 42” unless approved by downtown development authority board of directors. When possible, the menu board should be either attached to a railing or building. If not attached, it can be located within a railing of a sidewalk café or be within two feet of a storefront or door.**
 - c. *Holiday signage and temporary décor.* All holiday and temporary décor and signage shall be permitted for a maximum duration of thirty (30) days, unless prior written approval is obtained from the downtown development authority. **Certain holidays deemed appropriate by downtown development authority are exempt from this can be left up longer (e.g. Christmas.) All temporary signage shall clearly display the date of the associated event and must be removed within two (2) calendar days following the conclusion of said event.**
 - d. *Trash receptacles.* The number, type and location of trash receptacles shall be subject to approval.
 - e. *Umbrellas.* Each table may be equipped with an umbrella that, when open, shall extend to at least the same diameter as the table it serves and shall be anchored with a weighted base. Any umbrella may not ~~display the name or logo of the restaurant operating the sidewalk café and/or~~ advertise a product. Each umbrella shall be maintained in good, clean, and operable condition.

Commented [KL3]: Removed the word permit after café

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- f. **Tables and Chairs Materials.** Tables and chairs shall match and must conform to a color palette approved by the Downtown Development Authority. All furniture must be made of safe, sturdy, and durable material, such as wood, steel, or wrought iron. All furniture shall be commercial grade and manufactured for outdoor commercial use. Small round or square tables shall seat no more than four people. Use of larger tables may be granted provided that all clearance requirements are met. Round tables shall be no larger than three feet diameter. Square tables shall be no larger than three feet wide and rectangular tables no more than three x four feet. Tables shall be no more than 30 inches in height.
- g. **Merchandise.** Retailers can display a sales rack or merchandise during hours of operation, not to be left out overnight. Rack should be no larger than 48" wide and should be placed directly against the building façade and maintain a four feet minimum clear pedestrian path where street fixtures exist.
- 7) **Landscaping.** Flower boxes or planters may be used to define the corner boundaries of the seating area. Each storefront is allowed a maximum of two planters, with the combined height of the planters and live plants not exceeding four feet from sidewalk level. The base of each planter should not exceed two feet in width. All planting areas must contain seasonal blooming or ornamental evergreen live plants year-round. All plants in the planters must be live or the planter must be removed. Permit holders are responsible for maintaining flower boxes and planting areas in a clean and attractive condition. Flower boxes, planters, and trash receptacles must be portable, discreet in color, and made of safe, durable, and attractive materials such as wood, steel, or colored concrete. All items must be placed adjacent to the building façade and no more than two feet from it. The Downtown Development Authority (DDA) reserves the right to approve exceptions to the number, size, materials, placement, or design of planters and other streetscape elements at its discretion.
- 8) ~~Hours of operation. A business with a sidewalk café permit may be open for breakfast, lunch, and/or dinner and any combinations thereof, consistent with the businesses normal hours of operation.~~
- 9) **Lighting.** All outdoor lighting must be bistro lighting and approved by the Historical Preservation Committee.
- 10) **Smoking.** Those businesses which are prohibited by state or local law from allowing smoking within the interior of their establishments may not allow smoking within the area permitted for a sidewalk café permit.
- 11) **Guidelines.** The Downtown Development Authority shall adopt standards and guidelines for consideration of applications, without amendments to this article.

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- e) *Liability and insurance.* The city shall require permit holder to indemnify and hold harmless the city and its officers and employees for claims and liability arising out of the permit holder's use of a sidewalk ~~café~~ permit. The city shall require the permit holder to obtain insurance covering the use of a sidewalk ~~café~~ permit and to name the city as an additional insured with the respect to such insurance. The city shall prepare guidelines with respect to any indemnification and insurance requirements of permit holders.
- f) *Revocation or suspension of permit.* The approval of a sidewalk ~~café~~ permit is conditional at all times. A sidewalk ~~café~~ permit may be revoked or suspended by the city's code enforcement officer, upon approval the city clerk's office, if it is found that:
- 1) Any necessary business or health permit has been suspended, revoked, or cancelled.
 - 2) The permit is not in compliance with any of the city's regulations with respect to sidewalk ~~café~~ permits.
 - 3) The permit holder has failed to correct violations of this chapter or any other ordinance within 48 hours of receipt of the notice of same delivered in writing to the permit holder.
 - 4) The permit holder has a history of violations of this chapter of three or more within a two year period or immediately upon any violation depending upon severity of the violation.
 - 5) Permits may be suspended for a period up to 12 months depending upon history and severity of violations.
- g) *Fines for violations.* In addition to the possible revocation or suspension of a permit, the following minimum fines ~~shall~~ may be imposed for violations of this chapter:
- 1) First citation: \$100.00 fine.
 - 2) Second citation (within one-year period): \$250.00 fine.
 - 3) Third and subsequent citations (within one-year period): \$500.00 fine.
- h) *Americans with Disabilities Act.* Any person or entity receiving a permit hereunder agrees to fully comply with all requirements of the Americans with Disabilities Act as currently existing or as may be hereafter amended.
- i) *Exemption Clause.* The city can place planters on public right-of-way for beautification purposes and other structures for special events as deemed appropriate.

(Ord. No. 2007-6-2, § I, 6-18-07; Ord. No. 2001-6-2, §§ I-V, 6-6-11; Ord. No. 2015-05-02 §§ I-III, 5-26-15)

Editor's note(s)- Ord. No. 2007-6-2, § I, adopted June 18, 2007, deleted in its entirety the former Art. II § 11-60, and replaced it with a new Art. II, § 11-60 as set out herein. The former Art. II, § 11-60 pertained to similar subject matter. See also the Code Comparative Table.