

CITY OF DUBUQUE

SIDEWALK CAFE PERMIT

Guidelines and Application

UPDATED: May 2021



DOCUMENTS FOR SUBMITTAL

APPLICATION FORM
INDEMNITY AGREEMENT
DETAIL DRAWING & INFORMATION FORM
INSURANCE CERTIFICATE

ATTACHMENTS

SIDEWALK CAFÉ ORDINANCE
SAMPLE CHAIR/TABLE/DELINEATOR

SIDEWALK CAFÉ PERMIT APPLICATION AND AGREEMENT

This information is provided by the City of Dubuque to assist in the Sidewalk Café Permit process. The following instructions outline the required information that must be submitted in entirety before review can be initiated.

What is the definition of a sidewalk café?

"Sidewalk café" shall mean a group of tables, chairs, barriers or partitions and trash containers maintained upon part of the public right-of-way next to a storefront used by an establishment with a valid food and drink permit for the sale to the public of food, refreshments and beverages of all kinds. (Ord. 6-20, 2-19-2020)

When is a sidewalk café permit necessary?

A permit for a sidewalk café is necessary when a business would like to operate a restaurant, retail business, and/or food service establishment in the public right-of-way where sidewalk cafes are allowed, provided that restaurants are listed as a permitted or accessory use in the zoning district where they are located.

The sidewalk café area must be contiguous with a side of a building within which the restaurant or food service establishment is located.

A restaurant, retail business, and/or food service establishment that operates a sidewalk café must be licensed by the Iowa Department of Inspection & Appeals.

What are the regulations for a Sidewalk Café?

The attached City Code Title 10-3E describes regulations for placement and operating a sidewalk café. The café must comply with all federal, state and local regulations.

A minimum of 15 square feet is required per chair in the sidewalk cafe (International Building Code).

What information is *required* in the application?

Sidewalk Café Plan Review

Complete application for a sidewalk café permit must include a scaled, detailed rendering with the following information:

- street names
- overall right-of-way encroachment
- location of all trees, poles, benches, grating, and other amenities or encroachments of public right-of-way in the area of the proposed cafe
- proposed location of chairs, tables or other furniture or equipment as they relate to the public right-of-way and identify the four foot (4') clear pedestrian path past the cafe for passing pedestrians
- photo or detailed rendering of café area, tables, chairs, other amenities including weight and color of chairs and tables - see samples attached (black preferred)
- location, type, dimensions and method of the securing and delineating the enclosure for the sidewalk café – height is restricted to no less than 30" and no more than 40" with weights and colors detailed – see samples attached

Indemnity Agreement

- A signed indemnity agreement holding the City of Dubuque, its officers and employees harmless from and against any claims arising out of the use of the public right-of-way.

Insurance Certificate

- A certificate of insurance meeting the city's minimum requirements as shown on the attached Schedule.

Fee

- An application fee of \$200 is required at time of submittal. The period begins at the date of permit issuance and is only valid for one 12-month period. Annual application and renewal is required.

What are the steps in application review and approval?

After the Engineering Department ensures that the application and required documents are submitted, the following procedure takes place.

Step 1 Application is reviewed by the following departments: City Manager's Office, Fire, Health Services, Planning Services, Police, Finance, as well as Dubuque Main Street, for their respective areas of jurisdiction.

Step 2 After all information is initially approved by the above departments the application is given to the City Manager for final decision.

Step 3 A written notice will be provided as to the City's decision.

How long does the application process take?

It takes approximately 2-3 weeks to process an application after all required documents with complete details are received.

Can a permit be Revocation?

At any time, upon written notice to the property owner the City Manager may revoke a sidewalk café permit for a violation of the permit conditions. Grounds for termination may include violation of State liquor control laws, violation of the Code of Ordinances, or the creation of a safety hazard, health hazard or public nuisance.

This document is a general guide and not intended to cover every aspect of the regulations for Sidewalk Cafe and should not be considered the final or definitive authority. Questions on specific projects should be addressed to:

Engineering Department
City Hall, Second Floor
50 W. 13th Street
Dubuque IA 52001-4864
(563) 589-4270

engineer@cityofdubuque.org

City Manager's Office
City Hall, Second Floor
50 W. 13th Street
Dubuque, IA 52001-4864
(563) 589-4110



Engineering Department
50 W 13th St
Dubuque, IA 52001
Office (563) 589-4270
Fax (563) 589-4205
TTY (563) 556-9948
engineer@cityofdubuque.org
www.cityofdubuque.org

SIDEWALK CAFÉ APPLICATION FORM

Establishment/Business Owner(s): _____

Address: _____ **Phone:** _____

Business Name: _____ **Contact Name:** _____

Phone: _____ **Email:** _____

Site Location/Address: _____

Days and Hours of Operation (See Code10-3E-5) _____

Number of Tables & Chairs per table, barrier type & securing (include color photo)

Special Notes / Conditions:

- Special events take precedent over operation of Sidewalk Café when there is a conflict.
- No Smoking is allowed in the café during operational hours.

Zoning District: _____ **Historic District:** _____ **Port of Dubuque:** _____

Permitted or Accessory Use Approval _____

Property Owner Name(s): _____ **Phone:** _____

Describe proposal and reason necessary for café

Certification: I/we, the undersigned do hereby certify that:

The information submitted herein is true and correct to the best of my/our knowledge and upon submittal becomes public record.

1. Fees are non-refundable and payment does not guarantee approval and;
2. All additional required written and graphic materials are attached.
3. More than 50% of the establishment's total gross sales for the previous calendar year must be from the sale or dispensing of food, drink, or retail items.

Amount of total gross sales: _____ Amount of food, drink & retail sales: _____

Applicant Signature: _____ **Date:** _____

FOR OFFICE USE ONLY – APPLICATION SUBMITTAL CHECKLIST

Fee: _____ **Received by:** _____ **Date:** _____ **Permit #:** _____

Indemnity Agreement Site Plan Insurance Certificate Design Review Project Description Photo Other _____

Department Review:

City Clerk Engineering Health Finance Planning & Zoning Police Fire

City Manager Approved _____ Denied _____

INDEMNITY AGREEMENT

Complete and return to Engineering Department

In consideration for approval by the City of Dubuque, Iowa to the undersigned for the use of the following described property:

For the following purpose only:

On the following date(s):

The undersigned agrees to indemnify and hold harmless the City of Dubuque, its agents, officers and employees from and against all claims for injury or damages to persons or property arising out of or caused by the use of such property.

The undersigned further agrees, upon receipt of notice from the City of Dubuque, to defend at its own expense the City of Dubuque from any action or proceeding against the City of Dubuque arising out of or caused by the use of such property. The City of Dubuque may maintain an action against the undersigned to recover the amount of the judgment together with all the expenses incurred by the City in the action.

I HAVE READ THIS INDEMNITY AGREEMENT, I UNDERSTAND THE EFFECT OF THIS INDEMNITY AGREEMENT, AND I AM SIGNING THIS INDEMNITY AGREEMENT VOLUNTARILY.

Dated this _____ day of _____, 2 _____

By: _____

Title: _____

DETAILED DRAWING

See attached drawing detail page and include the following on the diagram:

- Street name
- overall public sidewalk/right of way and size of encroachment
- location of all trees, poles, benches, grating, and other amenities or encroachments of public right-of-way in the area of the proposed cafe
- proposed location of chairs, tables or other furniture or equipment as they relate to the public right-of-way and identify the four foot (4') clear pedestrian path past the cafe for passing pedestrians
- photo or detailed rendering of café area, tables, chairs, other amenities including weight and color of chairs and tables - see samples attached – black preferred
- location, type, dimensions and method of the securing and delineating the enclosure for the sidewalk café – height is restricted to no less than 30" and no more than 40" with weights and colors; see samples attached

INSURANCE CERTIFICATE – attach certificate with all endorsements meeting all requirements with the café application.

ATTACHMENTS:

Insurance Requirements

Sidewalk Café Ordinance

Sample Chair, Table, Delineation

Rev. 6/2015
Rev 7/2016
Rev 3/2017

CITY OF DUBUQUE ENGINEERING DEPARTMENT
APPLICATION FOR SIDEWALK CAFE - DETAIL SHEET

OWNER: _____ Date: _____
OWNER MAILING: _____ Contact Name & Phone Number:
CITY/STATE/ZIP: _____

LOCATION: _____ LEGAL DESCRIPTION: _____

PARCEL ID #: _____

<u>Items that need to be shown to scale on drawing</u>															- Use Additional sheets as needed																										
Street Names	Right-of-way Widths	Pavement Widths (where applicable)	Sidewalk Location & Size - show overall encroachment	Obstacles/improvements in/or near area - ie - trees, fences, drainage structures, vaults, signs, meters, etc.	Details of chairs, tables, delineation, design and location - provide photo of table, chair, delineation	Utility locations (One-call required - 1-800-292-8989 or #811)	Delineation method, type, height no less than 30" nor more than 40"																																		
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**City of Dubuque Insurance Requirements for Lessees of City Property and Right of Way
Licensees or Permittees**

INSURANCE SCHEDULE A

1. Applicant shall furnish a signed certificate of insurance to the City of Dubuque, Iowa for the coverage required in Exhibit I prior to the lease, license, or permit commencement. All lessees of City property and right of way licensees or permittees shall submit an updated certificate annually. Each certificate shall be prepared on the most current ACORD form approved by the Iowa Insurance Division or an equivalent. Each certificate shall include a statement under Description of Operations as to why the certificate was issued. Sidewalk Cafe in public Right of Way
2. All policies of insurance required hereunder shall be with an insurer authorized to do business in Iowa and all insurers shall have a rating of A or better in the current A.M. Best's Rating Guide.
3. Each certificate shall be furnished to the Finance Department of the City of Dubuque.
4. The lessee, licensee, or permittee shall be required to carry the minimum coverage/limits, or greater if required by law or other legal agreement, in Exhibit I. Failure to provide the required minimum coverage shall not be deemed a waiver of such requirements by the City of Dubuque.
5. Failure to obtain or maintain the required insurance shall be considered a material breach of the lease, license, or permit.
6. All required endorsements shall be attached to certificate.
7. Whenever a specific ISO form is referenced the current edition of the form must be used unless an equivalent form is approved by the Director of Finance and Budget. The lessee, licensee, or permittee must identify and list in writing all deviations and exclusions from the ISO form.
8. If lessee's, licensee's, or permittee's limits of liability are higher than the required minimum limits then the lessee's, licensee's, or permittee's limits shall be this agreement's required limits.
9. Lessee, licensee, or permittee shall require all subcontractors and sub-subcontractors to obtain and maintain during the performance of work insurance for the coverages described in this Insurance Schedule and shall obtain certificates of insurance from all such subcontractors and sub-subcontractors. Lessee, licensee, or permittee agrees that it shall be liable for the failure of a subcontractor and sub-subcontractor to obtain and maintain such coverage. The City may request a copy of such certificates from the lessee, licensee, or permittee.
10. Lessee, licensee & permittees shall be responsible for deductibles and self-insured retention and for payment of all policy premiums and other costs associated with the insurance policies required below.
11. All certificates of insurance must include agents name, phone number and email address.
12. The City of Dubuque reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by this Schedule at any time.
13. The City of Dubuque reserves the right to modify these requirements, including limits, based on changes in the risk or other special circumstances during the term of the agreement, subject to mutual agreement of the parties.

**City of Dubuque Insurance Requirements for Lessees of City Property and Right of Way
Licensees or Permittees**

INSURANCE SCHEDULE A (Continued)

EXHIBIT I

A) COMMERCIAL GENERAL LIABILITY

General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage Limit (any one occurrence)	\$50,000
Medical Payments	\$5,000

- 1) Coverage shall be written on an occurrence, not claims made, form. The general liability coverage shall be written in accord with ISO form CG 00 01 or business owners form BP 00 02. All deviations from the standard ISO commercial general liability form CG 0001, or Business owners form BP 00 02, shall be clearly identified.
- 2) Include ISO endorsement form CG 25 04 "Designated Location(s) General Aggregate Limit."
- 3) Include endorsement indicating that coverage is primary and non-contributory.
- 4) Include Preservation of Governmental Immunities Endorsement (Sample attached).
- 5) Include additional insured endorsement for:
The City of Dubuque, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers. Use ISO form CG 20 10 (Ongoing operations) or its equivalent.
- 6) Policy shall include Waiver of Right to Recover from Others Endorsement.

B) WORKERS' COMPENSATION & EMPLOYERS LIABILITY

Statutory Benefits covering all employees injured on the job by accident or disease as prescribed by Iowa Code Chapter 85.

Coverage A	Statutory—State of Iowa	
Coverage B	Employers Liability	
	Each Accident	\$100,000
	Each Employee-Disease	\$100,000
	Policy Limit-Disease	\$500,000

Policy shall include Waiver of Right to Recover from Others endorsement.

Coverage B limits shall be greater if required by the umbrella/excess insurer.

OR

If, by Iowa Code Section 85.1A, the lessee, licensee, or permittee is not required to purchase Workers' Compensation Insurance, the lessee, licensee, or permittee shall have a copy of the State's Nonelection of Workers' Compensation or Employers' Liability Coverage form on file with the Iowa Workers' Compensation Insurance Commissioner, as required by Iowa Code Section 87.22. Completed form must be attached.

**City of Dubuque Insurance Requirements for Lessees of City Property and Right of Way
Licensees or Permittees**

INSURANCE SCHEDULE A (Continued)

C) POLLUTION LIABILITY

Coverage required: Yes No

Pollution liability coverage shall be required if the lessee, contracting party, or permittee has any pollution exposure for abatement of hazardous or contaminated materials including, but not limited to, petroleum products, the removal of lead, asbestos, or PCBs. Pollution product and completed operations coverage shall also be covered.

Each occurrence	\$2,000,000
Policy Aggregate	\$4,000,000

- 1) Policy to include job site and transportation coverage.
- 2) Include additional insured for:
The City of Dubuque, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers. Use ISO form CG 2010. (Ongoing operations) or its equivalent and CG2037(completed operations) or its equivalent.
- 3) Include Preservation of Governmental Immunities Endorsement.
- 4) Provide evidence of coverage for 5 years after completion of project.

D) PROPERTY INSURANCE REQUIRED BY LEASE, LICENSE, OR PERMIT

Yes No

Evidence of property coverage provided: Yes

Include the City of Dubuque as Lender Loss Payable.

E) RIGHT-OF-WAY WORK ONLY:

UMBRELLA/EXCESS	\$1,000,000
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Yes No

The General Liability, Automobile Liability and Workers Compensation insurance requirements may be satisfied with a combination of primary and Umbrella or Excess Liability Insurance. If the Umbrella or Excess Insurance policy does not follow the form of the primary policies, it shall include the same endorsements as required of the primary policies including Waiver of Subrogation AND Primary and Non-contributory in favor of the City.

F) FLOOD INSURANCE

Yes No

If Required Coverage \$ _____

**City of Dubuque Insurance Requirements for Lessees of City Property and Right of Way
Licensees or Permittees**

Please be aware that naming the City of Dubuque as an additional insured as is required by this Insurance Schedule may result in the waiver of the City's governmental immunities provided in Iowa Code sec. 670.4. If you would like to preserve those immunities, please use this endorsement or an equivalent form.

PRESERVATION OF GOVERNMENTAL IMMUNITIES ENDORSEMENT

1. Nonwaiver of Governmental Immunity. The insurer expressly agrees and states that the purchase of this policy and the including of the City of Dubuque, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Dubuque, Iowa under Code of Iowa Section 670.4 as it is now exists and as it may be amended from time to time.
2. Claims Coverage. The insurer further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.
3. Assertion of Government Immunity. The City of Dubuque, Iowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurer.
4. Non-Denial of Coverage. The insurer shall not deny coverage under this policy and the insurer shall not deny any of the rights and benefits accruing to the City of Dubuque, Iowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Dubuque, Iowa.

No Other Change in Policy. The above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

SPECIMEN

ARTICLE E. SIDEWALK CAFES

This section has been affected by a recently passed ordinance, 06-20 - SIDEWALK CAFES. [Go to new ordinance.](#)

10-3E-1: DEFINITION:

"Sidewalk cafe" shall mean a group of tables, chairs, barriers or partitions, and trash containers maintained upon part of the public right of way next to a storefront used by an establishment with a valid food and drink permit for the sale to the public of food, refreshments and beverages of all kinds. (Ord. 42-15, 7-6-2015)

This section has been affected by a recently passed ordinance, 06-20 - SIDEWALK CAFES. [Go to new ordinance.](#)

10-3E-2: AUTHORIZATION:

- A. A sidewalk cafe in the public right of way may be operated only as set forth in this article. (2007 Code § 41-180)
- B. A sidewalk cafe in the public right of way shall be permitted where sidewalk cafes are allowed, provided that restaurants are listed as a permitted or accessory use in the zoning district where they are located. (Ord. 42-15, 7-6-2015)
- C. The sidewalk cafe area must be contiguous with a side of a building wherein a restaurant or food service establishment is located.
- D. Only restaurants or retail businesses where more than fifty percent (50%) of the business conducted on the premises is the sale or dispensing of food or retail items may request permission to operate a sidewalk cafe. The phrase "business conducted on the premises" shall mean the total business revenue generated on the premises during the previous calendar year. (2007 Code § 41-180)

This section has been affected by a recently passed ordinance, 06-20 - SIDEWALK CAFES. [Go to new ordinance.](#)

10-3E-3: PERMIT REQUIREMENTS; FEE:

- A. Permit Required; Application; Fee: No restaurant owner shall operate a sidewalk cafe in the public right of way without a permit therefor. The restaurant owner shall file an application with the city manager on a form provided by the city manager. The owner shall agree to abide by all state and local laws governing use of the public right of way. The application for a new permit shall include the location of all trees, poles, benches, grating and other amenities or obstructions in the right of way, and the location of any proposed furniture or equipment. The application shall be accompanied by a photograph or detailed renderings of the sidewalk cafe area and all proposed tables, chairs, barriers or other furniture or equipment. The applicant shall pay a fee established by the city manager. The permit shall be for one 12-month period from the date of issuance of the permit.
- B. Revocation Of Permit; Notice; Causes: The city manager may revoke a sidewalk cafe permit upon written notice to the restaurant owner for a violation of the conditions of the permit and after a reasonable opportunity for the restaurant owner to remedy the violation has expired. Grounds for termination of the permit include, but are not limited to: 1) a violation of state liquor control laws; 2) a violation of this code including this article; or 3) the creation of a safety hazard, health hazard or public nuisance. The city manager may also terminate the permit if the city manager determines there is a substantial and reasonable need for use of the public right of way where the sidewalk cafe area is located for a valid public purpose.
- C. Certificate Of Insurance: The restaurant owner shall provide a certificate of insurance with coverage satisfactory to the city manager and shall agree to hold the city, its officers and employees harmless from and against any and all claims of any kind arising out of the use of the public right of way. (2007 Code § 41-181)

10-3E-4: DESIGNATED AREA:

- A. Allowing For Pedestrian Use: A sidewalk cafe area shall not extend onto the sidewalk in a manner that will not allow a minimum of four feet (4') of unobstructed sidewalk adjacent to the street for pedestrian use. (Ord. 43-05, 6-20-2005)
- B. Obstructing Street Corners: No tables and chairs shall be placed in street corner areas defined by building lines extended to the street, and no closer than ten feet (10') from a disabled ramp.
- C. Delineation By Ropes: The sidewalk cafe area shall be delineated by ropes or some other temporary, suitable method which shall be clearly visible to pedestrians. Such temporary delineation and all tables, chairs and other items shall be removed at the end of each day's operation of the sidewalk cafe area, and the sidewalk cafe area shall be restored to its normal condition as a pedestrianway. No materials shall be stored on the public right of way. (2007 Code § 41-182)
- D. Tables And Chairs Secured: Any table, chairs, and other items that are used outdoors shall be secured within the sidewalk cafe area at the end of each day's operation of the sidewalk cafe area so that they are unusable and do not block or obstruct emergency exits from any building. (Ord. 43-05, 6-20-2005)
- E. Public Amenities Prohibited: A sidewalk cafe area may not include any public amenities such as benches, seats, tables or trash receptacles. (2007 Code § 41-182)

This section has been affected by a recently passed ordinance, 06-20 - SIDEWALK CAFES. [Go to new ordinance.](#)

10-3E-5: DAYS AND HOURS OF OPERATION:

- A. A sidewalk cafe may be operated any time of the year.
- B. A sidewalk cafe shall be set up and operated each day only between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. Sunday through Thursday and seven o'clock (7:00) A.M. and twelve o'clock (12:00) midnight Friday and Saturday. The sidewalk cafe area shall be restored to and maintained as a normal pedestrianway at all other times.
- C. Food and beverages shall be available for service to patrons in a sidewalk cafe area during all hours of operation of the sidewalk cafe. Sidewalk cafes shall not operate when the restaurant kitchen is closed. (2007 Code § 41-183)

10-3E-6: SOUND EQUIPMENT:

Amplified sound equipment shall not be permitted in a sidewalk cafe area. (2007 Code § 41-184)

This section has been affected by a recently passed ordinance, 06-20 - SIDEWALK CAFES. [Go to new ordinance.](#)

10-3E-7: OPERATION:

- A. Right To Limit Number Of Cafe Areas: The city manager shall have the right in the city manager's discretion to limit the number of sidewalk cafe areas.
- B. Advertising: Advertising shall not be permitted in the sidewalk cafe area except for the name of the establishment, which may be placed on chairs, tables, umbrellas or other amenities, as approved by the city manager. The amenities used in the sidewalk cafe area shall at all times be maintained in good condition.
- C. Blocking Building Entrances Or Exits: No building entrances or exits shall be blocked in a sidewalk cafe area. (2007 Code § 41-185)
- D. Obstructing Pedestrian Right Of Way: The operation of the sidewalk cafe shall not obstruct the pedestrian right of way adjacent to the sidewalk cafe area. No sidewalk cafe furniture or barricade shall be placed closer than four feet (4') to a street, light pole, meter pole or other infrastructure so as to create an unobstructed route of less than four feet (4') in width. The sidewalk cafe shall be enclosed by a barricade not less than thirty inches (30") high and not more than forty inches (40") high. A sidewalk cafe shall remain within the approved boundaries of the sidewalk cafe area as shown on the restaurant owner's application. (Ord. 43-05, 6-20-2005)
- E. Restroom Capacity: The city manager may require additional restroom capacity for a restaurant with a sidewalk cafe to comply with building and housing requirements in this code.
- F. Occupancy Limits: Occupancy limits for a sidewalk cafe area shall be determined as set forth in criteria for outdoor service of alcoholic beverages on public rights of way.
- G. Parking: The restaurant owner shall not be required to provide additional parking for the operation of a sidewalk cafe.
- H. Inspection: A sidewalk cafe area shall be subject to inspection at any time in the discretion of the city manager.
- I. Serving Food And Alcoholic Beverages; Employee To Monitor: A sidewalk cafe serving food or alcoholic beverages shall have an employee monitoring the area at all times when alcohol is being consumed. Service of food or alcohol beverages in a sidewalk cafe area shall be limited to persons seated at tables in the sidewalk cafe area.
- J. Trash And Litter Removal: The restaurant owner shall be responsible for trash removal and shall maintain the area and the area within five feet (5') of the sidewalk cafe area in a clean and litter free manner during all hours of operation. The restaurant owner shall restore the area and the area within five feet (5') of the sidewalk cafe area to its normal condition as a pedestrianway, free of litter after operation of the sidewalk cafe each day.
- K. Port Of Dubuque PUD: No permit shall be issued for a restaurant cafe area in the Port Of Dubuque PUD district unless such area complies with the Ice Harbor urban renewal district design standards.
- L. Access To Utilities: The restaurant owner shall not in any way interfere with access to public or city utilities located and/or operated within the public right of way.
- M. Conformance With Federal, State And Local Laws: The operation of a sidewalk cafe shall conform to all applicable federal, state, and local laws and regulations. (2007 Code § 41-185)

Prepared by: Crenna M. Brumwell, Esq. 300 Main Street Suite 330 Dubuque IA 52001 563 589-4381

ORDINANCE NO. 6-20

AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 10 PUBLIC WAYS AND PROPERTY, CHAPTER 3 ENCROACHMENTS ON PUBLIC PLACES, ARTICLE E SIDEWALK CAFES, SECTIONS 10-3E-1 DEFINITION, 10-3E-2 AUTHORIZATION, 10-3E-3 PERMIT REQUIREMENTS; FEE, 10-3E-5 DAYS AND HOURS OF OPERATION, AND 10-3E-7 OPERATION

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. Section 10-3E-1 of the City of Dubuque Code of Ordinances is amended to read as follows:

10-3E-1: DEFINITION:

"Sidewalk cafe" shall mean a group of tables, chairs, barriers or partitions, and trash containers maintained upon part of the public right of way next to a storefront used by an establishment with a valid food and drink permit for the sale to the public of food, refreshments and/or beverages of all kinds.

Section 2. Section 10-3E-2 of the City of Dubuque Code of Ordinances is amended to read as follows:

10-3E-2: AUTHORIZATION:

A. A sidewalk cafe in the public right of way may be operated only as set forth in this article.

B. A sidewalk cafe in the public right of way shall be permitted where sidewalk cafes are allowed, provided that restaurants are listed as a permitted or accessory use in the zoning district where they are located.

C. The sidewalk cafe area must be contiguous with a side of a building wherein a restaurant, retail business, and/or food service establishment is located.

D. Only restaurants or retail businesses where more than fifty percent (50%) of the business conducted on the premises is the sale or dispensing of food, drink, or retail items may request permission to operate a sidewalk cafe. The phrase "business conducted on the premises" shall mean the total business revenue generated on the premises during the previous calendar year.

Section 3. Section 10-3E-3 of the City of Dubuque Code of Ordinances is amended to read as follows:

10-3E-3: PERMIT REQUIREMENTS; FEE:

- A. Permit Required; Application; Fee: No establishment owner shall operate a sidewalk cafe in the public right of way without a permit therefor. The restaurant owner shall file an application with the city manager on a form provided by the city manager. The owner shall agree to abide by all state and local laws governing use of the public right of way. The application for a new permit shall include the location of all trees, poles, benches, grating and other amenities or obstructions in the right of way, and the location of any proposed furniture or equipment. The application shall be accompanied by a photograph or detailed renderings of the sidewalk cafe area and all proposed tables, chairs, barriers or other furniture or equipment. The applicant shall pay a fee established by the city manager. The permit shall be for one 12-month period from the date of issuance of the permit.
- B. Revocation Of Permit; Notice; Causes: The city manager may revoke a sidewalk cafe permit upon written notice to the establishment owner for a violation of the conditions of the permit and after a reasonable opportunity for the establishment owner to remedy the violation has expired. Grounds for termination of the permit include, but are not limited to: 1) a violation of state liquor control laws; 2) a violation of this code including this article; or 3) the creation of a safety hazard, health hazard or public nuisance. The city manager may also terminate the permit if the city manager determines there is a substantial and reasonable need for use of the public right of way where the sidewalk cafe area is located for a valid public purpose.
- C. Certificate Of Insurance: The restaurant owner shall provide a certificate of insurance with coverage satisfactory to the city manager and shall agree to hold the city, its officers and employees harmless from and against any and all claims of any kind arising out of the use of the public right of way.

Section 4. Section 10-3E-5 of the City of Dubuque Code of Ordinances is amended to read as follows:

10-3E-5: DAYS AND HOURS OF OPERATION:

- A. A sidewalk cafe may be operated any time of the year.
- B. A sidewalk cafe shall be set up and operated each day only between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. Sunday through Thursday and seven o'clock (7:00) A.M. and twelve o'clock (12:00) midnight Friday and Saturday. The sidewalk cafe area shall be restored to and maintained as a normal pedestrianway at all other times.
- C. Food and/or beverages shall be available for service to patrons in a sidewalk cafe area during all hours of operation of the sidewalk cafe. Sidewalk cafes shall not operate when the restaurant kitchen is closed.

Section 5. Section 10-3E-7 of the City of Dubuque Code of Ordinances is amended to read as follows:

10-3E-7: OPERATION:

- A. Right To Limit Number Of Cafe Areas: The city manager shall have the right in the city manager's discretion to limit the number of sidewalk cafe areas.
- B. Advertising: Advertising shall not be permitted in the sidewalk cafe area except for the name of the establishment, which may be placed on chairs, tables, umbrellas or other amenities, as approved by the city manager. The amenities used in the sidewalk cafe area shall at all times be maintained in good condition.
- C. Blocking Building Entrances Or Exits: No building entrances or exits shall be blocked in a sidewalk cafe area.
- D. Obstructing Pedestrian Right Of Way: The operation of the sidewalk cafe shall not obstruct the pedestrian right of way adjacent to the sidewalk cafe area. No sidewalk cafe furniture or barricade shall be placed closer than four feet (4') to a street, light pole, meter pole or other infrastructure so as to create an unobstructed route of less than four feet (4') in width. The sidewalk cafe shall be enclosed by a barricade not less than thirty inches (30") high and not more than forty inches (40") high. A sidewalk cafe shall remain within the approved boundaries of the sidewalk cafe area as shown on the establishment owner's application.
- E. Restroom Capacity: The city manager may require additional restroom capacity for a restaurant with a sidewalk cafe to comply with building and housing requirements in this code.
- F. Occupancy Limits: Occupancy limits for a sidewalk cafe area shall be determined as set forth in criteria for outdoor service of alcoholic beverages on public rights of way.
- G. Parking: The establishment owner shall not be required to provide additional parking for the operation of a sidewalk cafe.
- H. Inspection: A sidewalk cafe area shall be subject to inspection at any time in the discretion of the city manager.
- I. Serving Food And Alcoholic Beverages; Employee To Monitor: A sidewalk cafe serving food or alcoholic beverages shall have an employee monitoring the area at all times when alcohol is being consumed. Service of food and/or alcohol beverages in a sidewalk cafe area shall be limited to persons seated at tables in the sidewalk cafe area.
- J. Trash And Litter Removal: The restaurant owner shall be responsible for trash removal and shall maintain the area and the area within five feet (5') of the sidewalk cafe area in a clean and litter free manner during all hours of operation. The restaurant owner

shall restore the area and the area within five feet (5') of the sidewalk cafe area to its normal condition as a pedestrianway, free of litter after operation of the sidewalk cafe each day.

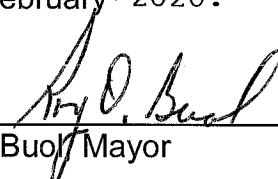
K. Port Of Dubuque PUD: No permit shall be issued for a sidewalk cafe area in the Port Of Dubuque PUD district unless such area complies with the Ice Harbor urban renewal district design standards.

L. Access To Utilities: The establishment owner shall not in any way interfere with access to public or city utilities located and/or operated within the public right of way.

M. Conformance With Federal, State And Local Laws: The operation of a sidewalk cafe shall conform to all applicable federal, state, and local laws and regulations.

Section 6. This ordinance shall take effect upon publication.

Passed, approved, and adopted this 4th day of February 2020.



Roy D. Buol Mayor

Attest:



Kevin S. Firnstahl, City Clerk

Sidewalk Café Guidelines

The guidelines provide design direction for sidewalk cafes. Cafés should contribute to a pedestrian-friendly environment through thoughtful planning and design. They should enhance the public realm and experience.

Appropriate:

- Durable café furnishings and barriers should be compatible with the historic building and neighborhood context.
- Materials such as metal, powder coated metal, quality stained/painted wood, plants, canvas, or a combination thereof are encouraged. Furnishings should be consistent for each café.

Inappropriate:

- Materials made of plastic, resin or similar synthetic materials.
- Wood products of poor quality and/or design.
- Rope, chain, and retractable belts.
- Incorporating advertising (business, product or service).





