

12.04.102 – Outdoor cafes and food carts in public places

- A. The City Administrator is authorized to issue Sidewalk Café Permits for the use of public places located in the CBD-1 zoning district (except for public places located in the First Street TIF District, as hereinafter described), for the purpose of serving food and beverages to the public (including, without limitation, the placement of restaurant tables, chairs, food carts, and similar or related equipment), subject to the following conditions:
1. Permits issued hereunder shall be valid from January 1 or the date of permit issuance, whichever is later, through December 31 of the same year. The permit fee for a Sidewalk Café Permit shall be fifty dollars (\$50.00) for each year the permit is obtained.
 2. A Sidewalk Café Permit shall be required prior to placing tables, chairs, umbrellas, enclosure fencing, food carts, or any other equipment on any public sidewalk, or walkway or plaza.
 3. Sidewalk Café Permits may be issued only where the equipment is incidental to the operation of a restaurant on private property contiguous to the sidewalk, walkway or plaza.
 4. The proposed use shall not unreasonably interfere with pedestrian or vehicular traffic or with access to parked vehicles, and in no event shall the uses permitted by a Sidewalk Café Permit reduce the open portion of any sidewalk or walkway to less than five feet (5') in width. All equipment placed in the public area shall conform with Section 12.04.200 of this Chapter as to corner visibility.
 5. Prior to issuance of a permit, the applicant shall furnish a dimensioned plan showing the sidewalk or other public space and all existing public improvements and encroachments such as light posts, benches, planters, trash receptacles, fences, trees and tree grates in the area, bicycle racks and newspaper boxes. The diagram shall also include the location of the curb relative to the building and the proposed location of all café furniture, food carts, and other equipment to be placed on the sidewalk.
 6. The consumption and possession of alcoholic beverages in the area for which a Sidewalk Café Permit has been issued shall be prohibited, except as allowed pursuant to Title 5, "Business Licenses and Regulations," Chapter 5.08, "Alcoholic Beverages," Section 5.08.300, "Consumption and Possession of Alcoholic Liquor on Public Property."
 7. All applicable County Health Department sanitation requirements shall be followed for outdoor food handling. The permittee shall be responsible for posting the outdoor seating area as to any special Health Department requirements.
 8. All public areas encompassed by the Sidewalk Café Permit shall be maintained in a sanitary manner at all times. Food scraps and containers shall be disposed of in appropriate refuse containers on a regular basis during the day by the permittee. Sweeping of refuse or food scraps into tree grates is not permitted.
 9. Permittees are responsible for emptying the public trash containers placed by the City if they should become full prior to the next regular pickup time.
 10. Permittees shall see that the public areas encompassed by their Sidewalk Café Permit are clean at the end of each business day, so as not to have any food or drink leftovers remaining which would pose an attraction to animals or insects. Each permit holder shall wash, as needed, the public area to remove any food or drink residue that may attract animals and/or create a pedestrian slip hazard.
 11. Design and placement of tables and chairs, as well as other equipment, shall comply with applicable requirements of the Americans with Disabilities Act and the Illinois Accessibility Act.
 12. No tables, umbrellas, enclosure fencing, or other equipment shall be attached or affixed to the sidewalk, parkway, poles or any other public facilities.
 13. The applicant for a Sidewalk Café Permit shall provide at its sole cost and expense and shall maintain in effect during the entire period of the permit, insurance in the following manner:
 - a. Worker's Compensation Insurance in at least the required statutory limits;
 - b. Comprehensive General Liability Insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least two million (\$2,000,000.00) dollars per occurrence, and two million (\$2,000,000.00) dollars for any single injury; and
 - c. Prior to issuance of a Sidewalk Café permit, the permittee shall provide the City with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party.
 - d. The required insurance policies shall each provide that they shall not be changed or cancelled during the life of the Sidewalk Café Permit until 30 days after written notice of such change has been delivered to the City.
 14. The permittee shall indemnify, defend, protect, and hold harmless the City, its corporate authorities, officers, employees, agents and volunteers from and against any and all claims, demands, losses,

12.04.102 Outdoor cafes and food carts in public places

damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, all costs and cleanup actions of any kind, and all costs and expenses incurred in a connection therewith, including but not limited to a reasonable attorney's fees, expert witness fees and costs of defense (collectively, the "Losses") directly or proximately resulting from permittee's acts or omissions, except to the extent that the city is the sole legal cause of said losses. The foregoing notwithstanding, under no circumstances shall the issuance of any permit provided for under the St. Charles Municipal Code, including but not limited to a Sidewalk Café Permit, to the permittee or any other person or entity constitute an act of negligence or willful misconduct. Nothing set forth in the said permit shall be deemed a waiver by the city of any defenses or immunities relating to the permittee or its property, or to any person or entity or their property, that are or would be otherwise available to the city or its corporate authorities, officers, employees, agents and volunteers under the common law of the State of Illinois or the United States of America. The provisions of this section shall survive the expiration or earlier termination of each Sidewalk Café permit, or the renewal thereof.

15. The City may suspend or revoke the Sidewalk Café Permit for any reason including, but not limited to violations of any provision of the St. Charles Municipal Code after providing at least three (3) days written notice, except in an emergency, to a permittee.
- B. The City Administrator is authorized to issue Sidewalk Café Permits for the use of public places located in the First Street TIF District for the purpose of serving food and beverages to the public (including, without limitation, the placement of restaurant tables, chairs, food carts, and similar or related equipment), subject to the conditions outlined above as 2. through 15., as well as the following additional conditions:
1. No tables, chairs umbrellas, enclosure fencing, food carts, or any other equipment in the outdoor café area shall obstruct any access areas for emergency vehicles.
 2. If the outdoor café area is fenced in, the door that provides access to the outdoor café area shall not be a required exit for the building, tenant space or unit.
 3. Permits issued hereunder shall be valid for a term of one hundred (100) days or less and shall be issued for the period of April 15 (or the date of application, whichever is later) through July 23 and/or the period of July 24 (or the date of application, whichever is later) through October 31. The holder of a permit for April 15 through July 23 shall not have any automatic right to the issuance of a permit for the period of July 24 through October 31, but shall have the right to apply for a second permit. If a second permit is applied for within a calendar year, the permit fee for the second permit shall be twenty five dollars (\$25.00).

The First Street TIF District is described as follows: That part of the Northwest Quarter and the Southwest Quarter of Section 27, Township 40 North, Range 8, East of the Third Principal Meridian in the City of St. Charles, Kane County, Illinois described as follows: Beginning at the northeast corner of Block 44 in Original Town of St. Charles, said point also being the intersection of the south right-of-way line of Main Street (Illinois Route 64) and the westerly right-of-way line of 2nd Street (Illinois Route 31); thence easterly along said southerly right-of-way line to the west bank of the Fox River; thence southerly along said west bank to the southerly right-of-way line of Indiana Street; thence westerly along said southerly right-of-way line to the easterly right-of-way of 1st Street; thence southerly along the easterly right-of-way line of 1st Street to the northerly right-of-way line of Prairie Street; thence easterly along said northerly right-of-way line of Prairie Street to the northerly extension of the west line of Lot 5 in the Piano Factory of St. Charles Subdivision; thence southerly along the west line of said Lot 5 and the northerly extension thereof to the most southerly corner of said Lot 5; thence southwesterly along the extension of the southeasterly line of said Lot 5 to the westerly right-of-way line of 2nd Street (Illinois Route 31); thence northerly along said westerly right-of-way line of 2nd Street to the Point of Beginning.

(2010-M-68 : § 1; 2007-M-45 : § 2; 2004-M-8 : § 2; 1999-M-48 : § 2; 1996-M-57 : § 1)