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Title: An Ordinance amending Chapter 106 of the Saint Paul Legislative Code to clarify requirements for sidewalk cafés and sidewalk sales displays.

Sponsors: Dave Thune, Kathy Lantry, Russ Stark

Indexes:

Code sections:

Attachments: 1. Sidewalk Cafe Recommendations from the Mayor's Advisory Committee for People with Disabilities, 2. Smart Trips Letter.pdf

Date	Ver.	Action By	Action	Result
1/13/2011	4	Mayor's Office	Signed	
1/12/2011	3	City Council	Adopted	Pass
1/5/2011	3	City Council	Amended and Laid Over for Final Adoption	Pass
12/15/2010	2	City Council	Amend and Continue Public Hearing	Pass
11/17/2010	1	City Council	Continue Public Hearing	Pass
11/10/2010	1	City Council	Amended	Pass
11/10/2010	1	City Council	Laid Over to Third Reading/Public Hearing	
11/3/2010	1	City Council	Laid Over to Second Reading	

An Ordinance amending Chapter 106 of the Saint Paul Legislative Code to clarify requirements for sidewalk cafés and sidewalk sales displays.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

Section 106.01 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 106.01 Obstructions

(a) *Encumbrances or obstructions prohibited.*

1. Purpose: The primary purpose of a public sidewalk or other right of way is to provide safe access to the public to travel from place to place. It is the intent of this ordinance to maintain that primary purpose at all times.

2. No person shall encumber or obstruct any sidewalk, lane, alley, public ground, public landing, wharf or pier, or other public place by placing thereon or therein any building materials, carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, signs, or any other materials or substance whatever. No person shall operate a sidewalk café without a license and a right of way obstruction permit issued by City of Saint Paul.

3. A minimum width of forty-eight (48) inches of clear, unobstructed pedestrian through walk zone, exclusive of the curb, shall be maintained on the public sidewalk at all times.

(b) Sidewalk cafe exemptions. Any ~~food establishment which operates a restaurant and that~~ is licensed under Chapter 331A of the Legislative Code, may, ~~with notice to the license inspector,~~ apply to the department of safety and inspections for a sidewalk café license and a right-of-way obstruction permit to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk or public landing, wharf or pier which immediately adjoins directly in front of the property under the control of the licensed premises (hereafter referred to as sidewalk café). The following restrictions shall apply; provided, however, that the ~~license inspector~~ city inspection staff may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the ~~license inspector~~ city inspection staff to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

~~(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times.~~

(1) An applicant for a license and permit under this section shall file an application on forms provided by the director of safety and inspections. The application must be accompanied by a site plan drawn to scale showing locations of the property line, curbs, existing facilities/obstructions within the public right of way, and the proposed location of the sidewalk cafe furnishings (tables, chairs, plant tubs, planters, and fencing or barricades). The applicant shall cooperate with the department of safety and inspections and the department of public works to develop an acceptable site plan. The applicant shall pay all license fees, permit fees, and service availability charges prior to license and permit approval.

(2) Site Plan Requirements. The following site plan requirements must be met for all sidewalk café licenses issued or renewed after January 1, 2011. The applicant shall submit an application meeting the following site plan requirements. The site plan must cover the entire area between the curb and the building. The site plan must show the exact location of all existing and proposed obstructions including the size and location of all furnishings and delineation of limits. The department of public works shall monitor compliance with the provisions of this section and Chapter 135 of the Saint Paul Legislative Code.

(a) If a sidewalk café is adjacent to a traffic lane, a barrier such as a planter or railing shall be installed to separate the sidewalk café from the curb and street area.

(b) Sidewalk café must be in an area that is physically delineated.

(c) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed.

(d) Emergency entries and exits shall be maintained according to the approved site plan and in compliance with the Americans with Disabilities Act.

(e) The general layout of the sidewalk café shall be determined by the department of public works, department of safety and inspections and the applicant with the following considerations:

1. Where possible, sidewalk cafes shall be located adjacent to the curb, allowing pedestrian traffic to flow next to the building.

2. The location of the sidewalk café shall be selected to minimize interference with pedestrian traffic.

3. The location of the sidewalk café shall consider the placement of existing public infrastructure.

4. Where possible, a twenty-four (24) inch clear zone shall be maintained at all times between the edge of a curbside sidewalk café and the face of a curb.

5 Where possible, the pedestrian through walk zone shall widen to seventy-two (72) inches for a minimum of sixty (60) inches every fifty (50) feet to provide ample room for two (2) wheelchairs, strollers, or pedestrians to pass. When two (2) neighboring sidewalk cafes fall within the fifty (50) foot zone, both will equally share the sixty (60) inch clear zone.

6 If a single block face has sidewalk cafes both immediately adjoining the building and located on the curbside, then, where possible, the through walk zone shall include a clear, unobstructed sightline of at least thirty (30) inches along the entire length of the sidewalk.

7 If liquor is served on the sidewalk café, where possible, safety barriers or other enclosures shall be provided protect patrons from any hazards, including vehicular traffic.

8 Where possible, borders of the sidewalk café area shall be delineated with a continuous, stable, non-flexible barrier device that includes a continuous bottom edge a maximum of six inches above the sidewalk surface and a continuous upper surface or rail a minimum of three (3) feet above the sidewalk surface.

(2 3) No tables, chairs, or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated, unless authorized by a right-of-way obstruction permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3 4) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4 5) No alcoholic beverages shall be allowed in the sidewalk café except with the appropriate license issued by the City. The licenseholder shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously intoxicated, and ensure that alcoholic beverages served to patrons remain on the licensed premises. Reasonable steps may include the use of barriers or fences, supervision of the outside area by security or staff personnel, and/or surveillance by electronic monitors. Failure to take such reasonable steps, and use them at all times that alcoholic beverages are consumed in the sidewalk café is grounds for the imposition by the city council of a condition on the license to prohibit sale of alcoholic beverages in the sidewalk café, and such condition shall not be deemed to be an adverse action against the license, and does not require the notice and hearing procedures of section 310.05 of the Legislative Code. Such sidewalk cafes are deemed part of the licensed premises for all requirements of the law.

~~(5) As part of a sidewalk café, no plant tub shall be located or maintained:~~

~~(a) Without the approval of the director of public works;~~

~~(b) In any alley;~~

~~(c) At any location where the distance from the face of the curb to the inside sidewalk is less than eight (8) feet;~~

~~(d) At any location less than fifty (50) feet from the nearest point of intersection with a street, except eighty (80) feet in bus loading areas, unless the director of public works shall approve;~~

~~(e) Any closer than ten (10) inches from the face of the curb; and~~

~~(f) At any location which, in the opinion of the director of public works, interferes with pedestrian traffic.~~

(6) It shall be the duty of the licensed food establishment to maintain sidewalk cafe furnishings such as chairs, tables, fencing, barricades, planters or plant tubs and their plantings each plant tub at all times in a neat, clean, safe and sanitary condition at its proper location and to inspect each such tub item periodically in order that it may be properly maintained, and located in accordance with the approved site plan. ~~Trees or~~

~~plants and their tubs shall at all times be kept in a neat, clean, and presentable condition. No advertising matter or sign or writing of any kind shall be displayed upon any tree or plant or its tub sidewalk café furnishing . Issuance of a permit shall not be construed as authorizing any permanent installation to be placed in the public right-of-way.~~

~~(7) No sidewalk café exemption authorized by this section shall be effective unless until the licensee has filed with the license and permit division department of safety and inspections evidence of insurance insuring the licensee against liability imposed by law arising out of the ownership, maintenance, or operation of such sidewalk café in the amount to be established by the city's risk manager. The city shall be named as an additional insured in the policy, providing such insurance and such policy shall further provide that it may not be canceled except upon ten (10) days written notice filed with the license and permit division. In the case of a sidewalk café which will be located on a public landing, wharf or pier under control of the Division of parks and recreation, the licensee must also show evidence of approval by that department for such extension.~~

~~(8) Following approval of the license and permit, the site plan must be clearly posted near the location of the license required to be posted under 409.08(8).~~

(c) Sidewalk sales exemption. Any person, partnership, firm or corporation (person) which operates a retail business in Saint Paul may, with advance written notice to the director of the department of public works (director), use a limited part of the public sidewalk which immediately adjoins the premises of such retail business for the display and sale of its merchandise. All of the requirements and restrictions of this subsection (c) shall be binding upon such person and upon the display and sale of merchandise. In addition, the director may, without adverse hearing procedures, impose additional reasonable restrictions upon, or withdraw approval of, the use of any sidewalk for retail sales where necessary in his or her judgment to protect the public health, safety and welfare or to prevent a nuisance from developing or continuing. Withdrawal of approval may be for either a specified time or an indefinite period, within which or after which no such person shall use the public sidewalk for the display or sale of merchandise. Such additional restrictions or withdrawal of approval shall be effective upon delivery of written notice thereof to the person, or an employee of the person at the business premises involved.

~~(1) The display and/or sale of merchandise shall not be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance of at least thirty-six (36) inches must be maintained on the public sidewalk at all times.~~

Section 2

Section 106.13 of the Saint Paul Legislative Code is hereby created to read as follows;

Sec. 106.13 Definitions:

(1) Sidewalk is defined as that portion or area of the street lying between the curblin~~e and the adjacent property line and intended for the use of pedestrian traffic. For purposes of a sidewalk café, it shall also include any permitted temporary sidewalk extension that protrudes out from the curblin~~e over the street creating a level surface and on which vehicle traffic is prohibited.

(2) Pedestrian through walk zone is defined as an area for pedestrian traffic that is no less than forty-eight (48) inches wide and is not obstructed by trees, trees grates which do not meet federal accessibility guidelines, street light poles, traffic signals, traffic signal control cabinets, bicycle racks, newsracks, benches, and bus shelters, and other public uses of the sidewalk.

(3) Sidewalk café furnishings are defined as tables, chairs, plant tubs, planters, and fencing or barricades and associated equipment.

Section 3

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.