



Legislation Text

File #: Ord 18-6, **Version:** 1

Amending Chapter 106 of the Legislative Code pertaining to restrictions on the use of sidewalks, streets, and etc. to permit sidewalk cafes on boulevards under certain conditions.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

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

Sec. 106.01. - Obstruction.

(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~~ walk-through zone, exclusive of the curb, shall be maintained on the public sidewalk at all times.

(b) *Sidewalk café exemptions.* Any restaurant that is licensed under Chapter 331A of the Legislative Code, may 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 directly ~~abutting in front of, or to the side of,~~ the property under the control of the licensed premises (hereafter referred to as sidewalk café). ~~The director of public works may approve a permit for a~~ Sidewalk cafés may be permitted on the boulevard area directly abutting said sidewalk, which shall not be granted unless, at a minimum, the conditions under Legislative Code Sec. 121.04 are met. The following restrictions shall apply to both the license and the permit; provided, however, that the city ~~inspection staff~~ may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval ~~upon~~ for the operation of any sidewalk café where necessary ~~in the judgment of the city inspection staff~~ to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

- (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 café 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 Chapters 135 of the Saint Paul Legislative Code, and Chapter 121 where applicable.
- (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 cafés 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-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-~~ through 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 cafés fall within the fifty-foot zone, both will equally share the sixty-inch clear zone.
 - 6. If a single block face has sidewalk cafés both immediately adjoining the building and located on the curbside, then, where possible, the ~~through walk-~~ through 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 (6) inches above the sidewalk surface and a continuous upper surface or rail a minimum of three (3) feet above the sidewalk surface.
- (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.
- (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.
- (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 cafés are deemed part of the licensed premises for all requirements of the law.
- (6) It shall be the duty of the licensed food establishment to maintain sidewalk café furnishings such as chairs, tables, fencing, barricades, planters or plant tubs and their plantings at all times in a neat, clean, safe and sanitary condition at its proper location and to inspect each item periodically in order that it may be properly maintained, and located in accordance with the approved site plan. No advertising matter or sign or writing of any kind shall be displayed upon any 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 until the licensee has filed with the 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 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.
- (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.
 - (2) No display racks, tables or other equipment of any kind shall be placed, or permitted to remain, on the public sidewalk during any period when merchandise is not displayed and available for purchase. While such merchandise is displayed and/or available for purchase, all racks, tables and other equipment shall be maintained in a clean and sanitary condition.
 - (3) The use of a portion of the public sidewalk for retail display or sale 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 or work, shall take precedence over said use of the public sidewalk at all times. The merchandise and display racks, tables and equipment shall be removed from the sidewalk immediately to permit such public-initiated maintenance procedures or work.
 - (4) No alcoholic beverages shall be allowed on the public sidewalk at any time.
 - (5) No plant tub shall be located or maintained on the public sidewalk as part of the display and/or sale of merchandise under this subsection.
 - (6) This subsection applies to and permits only the sale and display of merchandise and goods, and does not permit the sale, display or provision of services on the public sidewalk. This subsection does not apply to or allow the sale and display of merchandise and goods on public sidewalks by transient vendors or other persons who do not operate a retail business in a building on the private property adjoining the public sidewalk where the sales and display take place.
 - (7) No person shall sell or display merchandise, or permit the sale or display of merchandise, under this subsection until he or she has first obtained liability insurance or an amendment or rider to an existing liability insurance policy insuring the said person and the city and its officers and employees, against liability which might arise out of the display or sale of merchandise by such person upon the public sidewalk in an amount at

least equal to the maximum statutory liability of the city, its officers and employees. Failure to obtain such insurance shall be grounds for adverse action against all licenses held by such person, and shall be a misdemeanor violation of the Saint Paul Legislative Code. The city, together with its officers and employees, shall be named as additional insureds in the said liability insurance policy, and shall meet all other requirements established by law or the city risk manager.

- (8) Failure to comply with the provisions of this subsection (c), or with the terms of additional restrictions by the director, or with the terms of a withdrawal of approval by the director, shall be a misdemeanor, and shall be grounds for adverse action against all licenses held by such person.

Section 2

Section 106.13 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 106.13. - Definitions.

- (1) *Sidewalk* is defined as that portion or area of the street lying between the curblineline 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 curblineline over the street creating a level surface and on which vehicle traffic is prohibited.
- (2) *Pedestrian ~~through walk~~ through 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.