

ORDINANCE NO. O2018-010

AN ORDINANCE OF THE CITY OF SHAKOPEE AMENDING TITLE XV OF THE CITY CODE BY ADDING A NEW DEFINITION OF OUTDOOR CAFÉ AND AMENDING THE CENTRAL BUSINESS ZONE (B3) TO ALLOW FOR OUTDOOR CAFÉS IN THE PUBLIC RIGHTS OF WAY OR PLAZAS BY ANNUAL PERMIT

Section 1. New Definition. A new definition to be included in § 151.002 DEFINITIONS of the City Code is adopted and enacted as follows:

Outdoor café. “Outdoor café” shall mean a seating area on a public sidewalk or plaza adjacent to a permitted use in the Central Business Zone B-3 where food and beverages are sold from the business operating such permitted use are consumed by its customers.

Section 2, Amend 151.43 Central Business Zone (B-3) to add the following:

8. Outdoor Café is a permitted accessory use solely by special annual license, provided that:

a. Permit and Licensure.

1. A special annual license for an outdoor café shall be issued/renewed. The fee for such license shall be established in the city fee schedule and shall be issued by the City Administrator or their appointee only after inspection by the Planning and Development Department.
2. The annual license application for the license must define the physical perimeters for the outdoor café area and provide a diagram of the layout, pictures of the proposed furnishings, and the perimeter boundary.
3. If alcoholic beverages, beer and/or wine are proposed to be served in the outdoor café area, it is the responsibility of the applicant to amend its liquor license so the licensed premises include the outdoor café area.
4. The license application must include the evidence of liability insurance and the hold harmless agreement required by this section.
5. An outdoor café is not a permitted accessory use to a residence or a business selling beer, wine, or alcoholic beverages which does not have an on-sale license.
6. Permits are good for the year that they are applied in and must be resubmitted on an annual basis.

b. Functional Requirements.

1. Existing and/or proposed principal use shall conform to existing city zoning regulations.

2. The outdoor café area shall be limited to the public right-of-way or plaza abutting the front and or one side of the permitted use when on a corner.
3. Minimum clear sidewalk passage zone for pedestrians at the perimeter of the outdoor café area shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree grates, curbs, stairways, trash receptacles, street lights, street signs, bike racks, etc.
4. Overstory canopy of tree and umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above the sidewalk.
5. A minimum of thirty-six (36) inches shall be provided within aisles of the outdoor café area for service if there are multiple rows.
6. Furniture shall be movable to allow for seasonal changes.
7. If alcoholic beverages, beer, and/or wine are to be served, patrons must be seated and be served by a server from the establishment to ensure that beverages may not leave the licensed area and that patrons are of legal drinking age. It is the sole responsibility of the permittee to ensure these rules are met to preserve its liquor license and outdoor café permit.
8. No storage of furniture on sidewalks or rights-of-way shall be allowed between November 1 and the following March 31.
9. No outside bar, cooking facility, food preparation or holding area, or wait station shall be established on the outdoor café area.
10. Lighting is not permitted
11. Any electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices must meet applicable city and state noise regulations.
12. The outdoor café must be closed and vacated on Sunday through Thursday between the hours of 10 PM and 7 AM on the following day, but may remain open until 11PM (opening at 7 AM on the following day) on Friday and Saturday.
13. An exception to (12) may be granted for holidays by the Administrator
14. Smoking is not permitted in any portion of the outdoor café area.
15. Furniture shall be washable; constructed of commercial grade materials such as metal or other weather resistant materials; and maintained in a safe and sanitary condition.
16. Design of furnishings, outdoor café area layout shall be reviewed and approved by the city prior to installation.

c. Liability Requirements.

1. The property owner, outdoor café operator and the city shall enter into a hold harmless agreement, as provided by the city, exempting the city from all liability claims associated with the outdoor café area.
2. Maintenance of public right-of-way, including landscaping, for which the outdoor café area is located upon shall be the property owner and outdoor café operator's responsibility.
3. Security of the outdoor café area shall be the responsibility of the property owner and outdoor café operator.
4. The city must be provided with evidence of general liability insurance in the amount of at least \$1,000,000.00 naming the city as an additional insured.

d. Prohibited Acts

1. Placing any items or other equipment, tables or chairs on any portion of the public property other than the permitted area.
2. Block or restrict the pedestrian passageway to less than five (5) feet in width or block ingress or egress to or from any building. No items shall be placed as to block a driveway or parking space or visibility from an intersection.
3. Sublicense the encroachment area.
4. Place objects or barricades around the serving area.
5. Use tables, chairs or umbrellas or any other objects of such quality, design, materials or workmanship that are not authorized per the Administrator. Objects must meet design criteria for durability and safety and not feature any advertising.
6. Failure to secure permission of the landlord where a building has multiple occupants.
7. Failure to pick up, remove and dispose of trash or refuse left by the business or its patrons on the public right of way.
8. Failure to keep the sidewalk or public right of way surface free of dirt, spills, grease or other materials generated by the use of the space.
9. Store, park, or leave any stand or merchandise or materials overnight on any street or sidewalk except for tables and chairs which may be kept in their permitted area at the permittee's risk.

The encroachment permit is a temporary license which may be denied suspended or revoked for any conduct which is contrary to the provisions of this article or for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the operators or the

public's health, safety or welfare. No property right is created by this article and decision of the city administrator is final.

e. Enforcement and Termination.

In the event that any of the conditions of the special annual license issued pursuant to Section 50-64(2)(E) are violated, the city has authority to revoke the special annual license.

1. A violation of any condition set forth in the special annual license for an outdoor café shall be a violation of this code. If within thirty days of written notice from the zoning administrator the violation has not been corrected, the city may pursue the following procedure to terminate the permit:

(i) Written notice of revocation shall be served upon the property owner and any permittee at least ten city working days prior to the special annual license being revoked.

(ii) Notice to the property owner of record and any permittee shall be served personally or by first class mail. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation constituting the basis of the revocation, the facts which support the conclusions that a violation has occurred, and a statement that if the property owner and/or the permittee desire to appeal they must, within ten city working days, exclusive of the day of service, file a request with the city clerk for a hearing.

(iii) The hearing request shall be in writing, stating the grounds for appeal, and served personally or received by first class mail by the city clerk at the city hall not later than 4:30 p.m. of the tenth city working day following notice of revocation.

(iv) Following the receipt of a request for hearing, the city council shall set a time and place for the hearing within thirty days of receipt of the hearing request.

(v) Following the hearing, the city council may revoke the special annual license or impose such other remedies as it deems appropriate.

Section 3. Fees. Application shall be made on an annual basis with appropriate fees. This Ordinance amends the schedule of the City's fees to include the following which can be updated as part of the City's regular fee schedule. Annual fees shall be: \$150 for 250 square feet or less; \$250 for between 251 and 500 square feet; \$350 for between 501 and 1500 square feet; and \$500 for more than 1500 square feet.

Section 4. Effective Date. This Ordinance shall be in force and effect upon adoption and publication in the official newspaper of the City in accordance with applicable law. The City may publish a summary of this Ordinance.

Adopted in _____ session of the City Council of the City of Shakopee,
Minnesota, held this _____ day of June, 2018

Mayor of the City of Shakopee

ATTEST:

City Clerk