

CHAPTER 5.44

SIDEWALK DINING ON PUBLIC WALKWAYS

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5.44.010 Intent

The City Council hereby acknowledges that the primary purpose of public sidewalks is to permit the free and unobstructed right of travel by pedestrians. However, the use of public walkways for limited sidewalk dining areas can improve the business environment and enhance the quality of life for Ripon residents, so long as such use does not impede travel and does not interfere with the rights of adjoining property owners. Therefore, the City may permit such uses after findings have been met that applicants comply with the standards of this chapter. For purposes of this chapter, sidewalk dining on the public walkways shall only be permitted within the C-1, C-2 and C-3 zones within the City of Ripon. (Ord. 607 § 1, 1999)

5.44.020 Definitions

- A. "Abutting property" means the property and/or business directly abutting the portion of the public walkway in which the sidewalk dining area is placed, measured perpendicular to the property line or as determined by the Director.
- B. "Adjoining property" means a property which both adjoins the abutting property and fronts with it on the same public walkway.
- C. "Director" means the Director of the Community and Economic Development Department or his or her designee.
- D. "Obstruction" means any object which completely or partially blocks a path of travel on a public walkway and includes all temporary

structures, appurtenances, furnishings and furniture attendant to a permitted use under this Code.

E. "Permit" means the sidewalk dining permit created by this article.

F. "Person" means any individual, firm, company, account, association, partnership, corporation, joint venture, or any other entity.

G. "Public walkway" means all or any portion of territory within the City set apart and designated for the use of the public as a thoroughfare for primarily pedestrian travel, including but not limited to sidewalks.

H. "Sidewalk dining area" means an area within the public walkway set up in conjunction with the use of the abutting property for dining and including both any obstructions and any activity related to dining as approved.

I. "Sidewalk dining" is a temporary use of the public sidewalk area within the public rights-of-way adjacent to an eating establishment by setting tables, with or without cloth umbrellas, and chairs upon the sidewalk area for the exclusive purpose of dining. (Ord. 607, §1, 1999, Ord. 910 §1, 2021)

5.44.030 Extent of Zoning Compliance

A. A permit granted under this chapter is not a land use entitlement that runs with the land, but shall be considered personal in nature. Thus in the event of a sale of a business whose owner possesses a valid sidewalk dining permit, the permit shall lapse, and the new owner shall be required to obtain a new permit pursuant to the provisions of this chapter. Permits shall be considered temporary in nature, and permittee shall have neither property interest in nor any entitlement to the granting or continuation of any such permit.

B. A sidewalk dining permit shall not be construed to increase the floor area, square footage, or number of seats of any business.

C. Furthermore, a sidewalk dining permit shall only be issued in association with abutting properties with the following uses:

1. Bona fide public eating establishment (restaurant);
2. Coffee shop;
3. Donut shop;
4. Ice cream/frozen yogurt shop;
5. Bakery;
6. Pizza place;

7. Delicatessen;
8. Other similar uses as determined by the Director.
- D. Specifically excluded from applying for a sidewalk dining permit are the following uses;
 1. Uses considered to be a bar/cocktail lounge; and
 2. Night clubs. (Ord. 607 §1, 1999, Ord. 910 §1, 2021)

5.44.040 Sidewalk Dining Permitting Process

- A. No person shall establish or maintain any sidewalk dining area within a public walkway except pursuant to a written permit approved by the Director pursuant to this chapter. This chapter shall not be applicable to any activity performed pursuant to and permitted by other specific provisions of this Code or to other encroachments prohibited by other specific provisions of this Code.
- B. An application to operate a sidewalk dining area shall be submitted on forms provided by the Planning Department. Upon submittal, the Director may require additional information to show full compliance with this chapter and other regulations of the City.
- C. When the sidewalk dining area operator is not the owner of the property/building where the sidewalk dining area will be operated, the property owner's signature shall be included on the sidewalk dining application.
- D. A fee, as specified by resolution of the City Council is required with the application.
- E. Applications for a Sidewalk Dining Area shall be acted upon within thirty (30) days of submittal of a completed application, the Director may approve the application, subject to the provisions of this chapter. If the application does not comply with the minimum provisions, the Director may approve it in modified form to comply with the provisions of this chapter, or deny the application. Any action of the Director may be appealed to the Planning Commission as outlined in chapter 16.08.060 of this Code.
- F. Approvals granted to operate a sidewalk dining area may be revoked by the City at any time if such use is found to be in non-compliance with the provisions of this chapter.
- G. Sidewalk Dining permits shall be valid for one (1) calendar year, effective January 1st of

each year, unless terminated earlier by the Permit holder or unless the Permit is suspended or revoked by the City. For new Sidewalk Dining permit applications, fees are not prorated, however, any completed application received after November 30th of the current year will be processed for the next year. Renewal permits may be granted for one (1) year periods, subject to the satisfactory compliance with the conditions of this chapter and payment of a sidewalk dining permit renewal fee.

H. Any permittee desiring to change the permitted use by increasing the size of the sidewalk dining area, by changing substantially the use or arrangement of the occupancy shall file a new application under this chapter. (Ord. 910 §1, 2021)

5.44.050 Standards: General Standards for Sidewalk Dining Areas

- A. Development Standards
 1. Sidewalk dining areas may extend into the public right-of-way (sidewalk area), however a clear pedestrian pathway shall be maintained the full width of the property. The pathway shall maintain a minimum unobstructed passageway of five (5) feet as measured from the dining area to any obstruction (light standards, benches, street trees, trash containers, flower pots, etc.).
 2. All sidewalk dining equipment and furnishings shall be non-permanent and moveable, including any fencing that may be used in conjunction with the sidewalk dining area. The design, quality, materials and colors used for chairs tables, lighting and other fixtures shall complement the architectural style and colors used on the adjacent buildings. Sidewalk dining furniture, equipment, and other amenities shall be constructed of metal or other durable materials, unless an alternative material is approved by the Director.
 3. Fencing, if used to define the sidewalk dining area shall be no more than thirty-six inches high and shall not be view obscuring. Any fencing shall be subject to approval by the Director.
 4. Lighting shall not extend past the sidewalk dining area and shall not be a hindrance to pedestrians or vehicles.
 5. Portable umbrellas may be permitted provided they do not obstruct the public right-of-way/walkway, and do not contain advertising.

The minimum vertical clearance from the pedestrian surface for any overhead obstruction, including umbrellas shall be eight (8) feet.

6. Freestanding signs are not allowed in the sidewalk dining area, except as otherwise permitted by Chapter 16.172 of this Code.

7. No portion of the sidewalk dining area shall be located outside the area of the extended property lines of the operator's associated establishment.

8. The sidewalk dining area shall be at the same elevation as the adjacent sidewalk. There shall be no alteration or modification to the surface of the public walkway.

9. Gates and other items shall not open or operate into the adjacent required pedestrian pathway.

10. Dining areas serving alcohol shall delineate and separate the sidewalk dining area with a non-affixed barrier/fence approved by the approving authority (Alcoholic Beverage Control and Ripon Police Department). No alcohol shall be served in the sidewalk dining area until an expansion of the on-sale alcoholic beverage license to the sidewalk dining area is approved pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code.

B. Operational Standards

1. The owner of the primary business is responsible for proper operation of the sidewalk dining area. Sidewalk dining shall be continuously supervised by management or employees. Any behavior that disturbs customers or passersby on the sidewalk will constitute grounds for revocation of any permit(s) to operate a sidewalk dining area.

2. Establishments are required to maintain all areas in and around the sidewalk dining area in a manner which is clean and free of trash, debris and spills at all times.

3. The sidewalk dining hours of operation shall be limited to the hours of operation of the associated establishment.

4. Alcoholic beverages will only be available in conjunction with the food service at the sidewalk dining area.

5. If there is a sound system in the sidewalk dining area, it shall be limited to background music only, shall comply with all city noise regulations, and shall not be audible to pedestrians beyond ten feet of the sidewalk dining area, nor vehicles.

6. Pedestrians shall have the right-of-way where the food servers and customers have to cross or wait on the sidewalk area outside the sidewalk dining area.

7. Smoking and/or vaping of any substance shall not be permitted within any sidewalk dining or seating area authorized pursuant to this chapter.

8. The sidewalk dining area shall be cleared of all encroachments for special events and maintenance work on the subject and adjacent properties. Some special events will require that the encroachments be removed prior to midnight of those events (e.g. Almond Blossom Festival, Main Street Day, Taste of Ripon, etc.) in order to make the entire sidewalk available for pedestrians. Sidewalks must be cleaned and free of all trash, food, and spills, and made safe by the operator for pedestrian use when the encroachments are removed.

9. Furniture may remain on the sidewalk in the public right-of-way outside the hours of operation only if approved by the Director. Granting or withholding such approval shall be at the sole discretion of the Director. (Ord. 910 §1, 2021)

5.44.060 Required Findings for Sidewalk Dining Permit

No permit may be issued until the application is approved by the Director and all of the following findings are made by the Director:

A. The proposed sidewalk dining activity meets the standards of this chapter; and

B. The proposed sidewalk dining activity does not unduly interfere with the use of the public right-of-way or with adjoining property owners and tenants; and

C. The proposed sidewalk dining activity is compatible with the use and enjoyment of surrounding neighborhood uses; and

D. The proposed sidewalk dining activity does not impede travel on the public walkway or create a hazard to the health, safety or welfare of pedestrians; and

E. The proposed sidewalk dining activity does not unlawfully alter the associated use of the abutting property; and

F. The proposed sidewalk dining activity complies with all applicable Codes, laws, rules and regulations, including health, safety, building, fire, sign, zoning and business license regulations of the City of Ripon. (Ord. 607 § 1, 1999, Ord. 910 §1, 2021)

5.44.070 Indemnification of City

As a condition of issuance, the permittee, and any person acting under or pursuant to said permit, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent or groundless), to the maximum extent permitted by law, the City, its Council, and its officers, employees, commission members and representatives, from and against any and all liability, loss, suits, claims, damages, costs, judgments and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of any acts, negligence, errors or omissions (including, without limitation, professional negligence) of permittee, its employees, representatives, subcontractors, or agents by reason of or arising out of, or in any manner connected with, any and all acts, operations, privileges authorized, allowed or undertaken pursuant to the permit including, without limitation, any condition of property used in the operations.

The agreement to indemnify shall include, but is not limited to, personal injury (including death at any time) and property or other damage sustained by any person or persons (including, but not limited to, companies, or corporations, permittee and its employees or agents, and members of the general public).

As a further condition of issuance of the permit, the permittee shall covenant not to sue the City, its Directors, employees, agents, and representatives and shall cause its insurers to waive subrogation against the same with respect to any action, cause of action, claim or demand in any way resulting from or connected with any and all undertakings and operations conducted pursuant to the permit. (Ord. 607 §1, 1999, (Ord. 910 §1, 2021)

5.44.080 Liability Insurance

The City shall require as a condition to the issuance of a Sidewalk Dining Permit the filing

of a certificate of liability insurance evidencing coverage for bodily injury and property damage liability in an amount and form subject to the approval of the City Attorney. (Ord. 607 §1, 1999, Ord. 910 §1, 2021)

5.44.090 Revocation and Violation Penalty Appeals

The Director may institute revocation proceedings for a permitted use upon the finding of any violation of any standard or condition in accordance with this chapter or any other applicable regulation or law to protect the health, safety, and welfare of the City. The Director shall deliver a Notice of Intent to revoke the permit and specify the time within which the revocation is to take place allowing a reasonable time 'to comply or correct a violation. In addition, the Notice of Intent shall specify the relevant time periods and filing information for appeals. The permittee may appeal any decision of the Director to revoke the permit by filing an appeal to the Planning Commission not later than 10 days after delivery of the Notice of Intent. Within 20 days after delivery of a notice of termination, unless an appeal has been filed, and in such case, within 20 days after final disposition of the appeal, the City shall have the right to require the removal of all obstructions in the public walkway in the time specified; and may perform such removal if the permittee fails to do so within such time as specified by the Director. The permittee shall reimburse the City for any expense incurred by the City in removing any obstruction in the event it is not removed by the permittee within the time required by the City. Should the permittee continue to use the public walkway after the permit has been revoked, the City may take appropriate action to restrain the use of the public walkway by permittee and, in such event, the permittee shall reimburse the City for its reasonable costs and expenses in connection therewith, including reasonable attorney's fees and court costs. (Ord. 607 §1, 1999, Ord. 910 §1, 2021)