

Chapter 17.25 ~~Sidewalk Cafes~~Outdoor Dining

(Chapter added by Ordinance 150637, effective October 23, 1980.)

17.25.010 Permit Required.

(Amended by Ordinance 182870, effective June 3, 2009.)

~~Any person desiring to make an improvement, do work in, operate a business, or use the street area for outdoor dining purposes must first obtain a permit from the Director of the Bureau of Transportation (the "Director") as prescribed in this Chapter and Administrative Rule TRN-10.04, and pay the permit fees set forth in Section 17.25.030. Operating a Sidewalk Cafe on City sidewalks is unlawful without a permit. No person shall conduct a business as herein defined without first obtaining a permit from the Bureau of Transportation and paying the fee therefor to the City of Portland. It shall be unlawful for any person to operate a sidewalk cafe on any sidewalk within the City of Portland except as provided by this Chapter.~~

17.25.020 Definitions.

(Amended by Ordinance Nos. 177028, 182870, 184957, 188556 and 188850, effective April 6, 2018.)

~~A. Operate a Sidewalk Cafe~~Outdoor dining. ~~For the purposes of this Chapter, outdoor dining~~Operate a Sidewalk Cafe means serving food or beverage from a ~~cafe or restaurant~~business located in an adjacent building to patrons standing or seated at tables located within the ~~Ssidewalk area or parking lane areas~~ adjacent to the ~~cafe or restaurant~~business; however, the outdoor dining umbrella may also include non-food and beverage vending activities that occur within the sidewalk or parking lane areas.

B. Sidewalk. Sidewalk means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians and includes all areas of a pedestrian plaza as defined under Chapter 17.43.

~~C. Commercial zone~~Parking lane. ~~Commercial zone~~Parking lane means that portion of the street between the curb lines or the lateral lines of roadway and

~~the adjacent travel lane abutting property which is zoned C, Commercial, or E, Employment pursuant to Title 33, Planning and Zoning of this Code or any other zone which may be created as a successor zone to such existing commercial zones.~~

D. Transit ~~M~~m~~all~~. As defined in Subsection 17.24.105 A.

E. Clear ~~P~~p~~edestrian~~ ~~Z~~zone. The ~~C~~clear ~~P~~p~~edestrian~~ ~~Z~~zone is the area reserved for travel. No ~~café outdoor dining~~ operations are allowed in this area and the area must meet City standards and be free of hazards as described in the Sidewalk Maintenance Program Policy & Operating Guidelines (Portland Policy Document TRN-1.11).

F. Area of ~~O~~operation. Area of ~~O~~operation means the ~~outdoor dining area described in the permit of Sidewalk established by the City Engineer and demarcated on the sidewalk according to the specifications of the City Engineer~~ within which the business is allowed ~~outdoor dining privilege~~ to Operate a Sidewalk Café.

G. Responsible ~~P~~party. Responsible ~~P~~party means an individual who works on-site at the business and is responsible for overseeing the ~~outdoor dining area of Ooperation of the Sidewalk Café~~, such as the restaurant manager or other person with similar responsibility.

H. Permittee. Permittee means the individual ~~or entity~~ who applied for the ~~sidewalk café outdoor dining~~ permit and to whom the permit is issued. The ~~p~~Permittee bears ultimate responsibility for the ~~outdoor dining operation of the Sidewalk Café~~.

~~I. Storage of Materials: Storage of Materials means any arrangement of furniture and materials that precludes operating a sidewalk café.~~

17.25.030 Application Fee and Permit Fee.

(Amended by Ordinance Nos. 177028, 182870 and 188850, effective April 6, 2018.)

Fees for ~~operating a sidewalk café outdoor dining installations~~ are established by the Director ~~of the Bureau of Transportation, and, Fees~~ are assessed as

prescribed in TRN-3.450 – Transportation Fee Schedule. The fees are evaluated and updated annually.

Each application for an an outdoor dining sidewalk café permit shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee shall be collected prior to issuance of the permit. ~~Permits renewed prior to April 1st do not require an application fee.~~

17.25.040 Permit Application.

(Amended by Ordinance Nos. 182870 and 188850, effective April 6, 2018.)

Application for a an outdoor dining permit ~~to operate a sidewalk cafe~~ shall be made at the Bureau of Transportation in a form deemed appropriate by the Director ~~of the Bureau of Transportation~~. Such application shall include the information required in TRN-10.04 and on the application form itself, ~~but not be limited to, the following information:~~

~~A. Name and address of the applicant.~~

~~B. A drawing showing the width of the applicant's cafe or restaurant facing the sidewalk indicating the area requested to be used, location of doorways, and the width of sidewalk (distance from curb to building face), location of tree wells, parking meters, bus shelters, sidewalk benches, trash receptacles, driveway (curb cut), or any other semi permanent sidewalk obstruction.~~

~~C. A letter signed by the property owner, or an authorized representative of the property owner, consenting to a sidewalk cafe adjacent to the property on which the restaurant is located.~~

~~D. A signed agreement between the Responsible Party and the City stating the Responsible Party understands all terms and conditions of the permit.~~

17.25.050 Permit Requirements.

~~No person shall operate any restaurant or cafe, to provide food or alcoholic liquor, on any public street or sidewalk unless such person has obtained a valid permit, to operate that business in such a manner, pursuant to this Chapter.~~

~~17.25.060 Location Rules and Review.~~

~~(Amended by Ordinance Nos. 182870, 185397, 188850 and 189651, effective September 6, 2019.)~~

~~**A.** A sidewalk café shall only be allowed where the sidewalk is at least 8 feet wide. Café operations will be allowed only within the Area of Operation, which shall be established by the City Engineer.~~

~~The following table shows the minimum width of the Clear Pedestrian Zone for a given sidewalk width.~~

Sidewalk Width	Clear Pedestrian Zone Minimum
Greater than or equal to 8' 0" and less than or equal to 10' 0"	5' 6"
Greater than 10' 0" and less than 15' 0"	6' 0"
Greater than or equal to 15' 0"	8' 0"

~~**B.** Sidewalk width is determined by City records. Adjustments may be made at the discretion of the City Engineer when field measurements conflict with City records.~~

~~**C.** As a tool to allow compliance in areas with space conflicts a sidewalk café may be allowed pinch points that are less than the required Clear Pedestrian Zone minimum width. At a pinch point, the Clear Pedestrian Zone minimum width may be reduced by 6 inches for a length of no more than 2 feet. Pinch points must be at least 4 feet from adjacent pinch points. Pinch points are to be used at the discretion of the City Engineer.~~

~~**D.** The Clear Pedestrian Zone shall be free of all obstructions, permanent and temporary. This includes objects such as posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, vegetation, trees, tree-wells, planters, literature and news racks, parking meters, bus shelters, benches, tables, chairs, umbrellas, heaters, and waste receptacles.~~

~~**E.** Obstructions controlled by the café or property owner that extend into the Clear Pedestrian Zone shall be at least 7 feet above the sidewalk surface within the Clear Pedestrian Zone.~~

~~**F.** Curbside seating may be allowed, subject to approval, and must allow a 2 foot buffer from the curb closest to the property line. Loading zones, bus stops,~~

~~adjacent travel lanes or other conditions may prohibit curbside seating. The 2 foot buffer may be waived at the Bureau of Transportation's discretion when seating is adjacent to bike corrals or no-parking zones.~~

~~G. Within the Clear Pedestrian Zone there shall also be a continuous, straight passage at least 2 feet in width, known as the clear visual zone, to provide pedestrians with a clear visual indication of the direction and location of the Clear Pedestrian Zone. The Clear Pedestrian Zone is allowed to meander to navigate obstructions, but its ability to do so is limited by the clear visual zone.~~

~~H. To ensure compliance with the Americans with Disabilities Act, there shall be a continuous passage at least 4 feet in width with a maximum 2 percent pavement cross slope within the Clear Pedestrian Zone.~~

~~I. All sidewalk café furniture must be placed on hard surfaces, consistent with Section 17.28.060. In addition, no sidewalk café furniture is allowed to be placed within a driveway approach, or within any area between the driveway approach and the property line.~~

~~J. The approved Area of Operation shall be established by the City Engineer.~~

~~K. Within the Transit Mall, additional criteria regarding Clear Pedestrian Zone minimum widths may be applied per the City Engineer's discretion.~~

17.25.070 Liability and Insurance.

(Replaced by Ordinance No. 182870; Amended by Ordinance No. 188850, effective April 6, 2018.)

Insurance is required pursuant to TRN-10.21 Insurance Requirements for Permits in the Public Right-Of-Way Issued by Street Systems Management.

~~17.25.080 Form and Conditions of Permit.~~

~~(Amended by Ordinance Nos. 182870, 184957, 188850 and 189078, effective July 18, 2018.)~~

~~The permit issued shall be in a form deemed suitable by the City Engineer. In addition to naming the name of the business and other information deemed~~

appropriate by the City Engineer, the permit shall contain the following conditions:

~~A. Each permit issued shall terminate December 31st of the year in which issued.~~

~~B. The permit issued shall be personal to the Permittee only and is not transferable in any manner.~~

~~C. The permit may be suspended by the City Engineer when a separate Community/Special Event permit has been issued.~~

~~D. The permit is specifically limited to the approved Area of Operation.~~

~~E. The Responsible Party shall use positive action to assure that its use of the sidewalk in no way interferes with or embarrasses sidewalk users or limits their free and unobstructed passage.~~

~~F. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition. Trash containers may be provided for use by the cafe patrons.~~

~~G. The Permit shall be posted in a conspicuous place near the main entrance visible from the sidewalk at all times.~~

~~H. All furniture and equipment used in the operation of a sidewalk café shall be removed within a period of 10 days from the right-of-way when not available for use by patrons. Removal of furniture and equipment may be required, on a case by case basis, outside of the business' hours of operation if determined necessary for safety or other reasons at the discretion of the Director of the Bureau of Transportation. The Portland Police Bureau or the Office of Community & Civic Life may provide recommendations for the consideration by the Director of the Bureau of Transportation.~~

~~I. Responsible Party shall notify the Bureau of Transportation of any changes to the contact information provided in the City /Responsible Party Agreement.~~

~~J. Outdoor cooking shall be prohibited.~~

~~K. A sidewalk café event extension permit may be issued to extend Area of Operation on a temporary basis, during a community event street closure.~~

17.25.090 Denial, Revocation or Suspension of Permit.

(Amended by Ordinance No. 182870, effective June 3, 2009.)

A. The ~~Director City Engineer~~ may deny, revoke, or suspend any outdoor dining~~the~~ permit ~~for any sidewalk cafe~~ authorized in the City of Portland if it is found:

1. That the provisions of this Chapter have been violated.
2. The ~~P~~permittee does not have insurance which is correct and effective in the minimum amount prescribed in Section 17.25.070.

B. Upon denial or revocation, the ~~Director City Engineer~~ shall give notice of such action to the applicant, Rresponsible ~~P~~party, or and Ppermittee in writing stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the applicant, Rresponsible ~~P~~party, or permittee. Any denial or revocation may be appealed ~~to the as prescribed in Section 17.25.100~~City Engineer by filing within 10-20 calendar days of such notice.

17.25.100 Appeal.

(Replaced by Ordinance No. 182870, effective June 3, 2009.)

If an application for an outdoor dining installation is denied, revoked, or suspended because it does not meet the requirements described in this Chapter or Administrative Rule TRN-10.04, an applicant must first request a reconsideration conference with PBOT's Community Use Permitting Section Supervisor ("Supervisor") to afford the applicant an opportunity to present additional information that may not have been considered by the City or to correct factual errors. The City will reconsider the application with the new or corrected information. The request must be submitted in writing to the Supervisor within the time provided in Subsection 17.25.090 B. Any Applicant aggrieved by an Administrator's the Supervisor's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. -There is no filing fee. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of \$250 for any appeal pursuant to this

~~subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.~~

17.25.110 Enforcement.

(Added by Ordinance No. 188850, effective April 6, 2018.)

The Director ~~of the Bureau of Transportation~~, or designee, shall retain the right to inspect and enforce permit compliance related to rules and regulations. Enforcement of rules and regulations shall be in accordance with TRN-8.14 (Right-Of-Way Use Enforcement Program).