

1. Purpose

The purpose of this article is to set forth the conditions and requirements under which a sidewalk café, as defined, may be permitted to operate by conditional encroachment permit on a public sidewalk within the City.

2. Definition

A sidewalk café is any group of tables and chairs, and its authorized decorative and accessory devices, situated and maintained upon the public sidewalk for use in connection with the consumption of food and beverages sold to the public from or in adjoining indoor food serving establishment.

3. Conditional Encroachment Permit Required

A sidewalk café may be permitted only by the obtaining of a conditional encroachment permit from the Public Works Director, to use that portion of the public sidewalk, as described in the conditional encroachment permit, for a sidewalk café. This permit may be approved and issued subject to conditions.

4. Where Permissible

A sidewalk café may be permitted only in zoning districts which allow indoor food serving establishments and the sidewalk café's operation is incidental to and a part of the operation of such adjacent indoor food serving establishment.

5. Allowable Configurations

There are four possible configurations of sidewalk cafés allowed under these regulations. The food serving establishment may utilize one or more of these configurations:

a. Storefront – Adjacent to and Abutting

A sidewalk café may be located on the public sidewalk immediately adjacent to and abutting the indoor food serving establishment which operates the café provided that the area in which the sidewalk café is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food serving establishment.

b. Storefront – Curbside

A sidewalk café may be located on the public sidewalk at least three (3) feet from the face of curb provided that the area in which the sidewalk café is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food serving establishment.

c. Side Street – Adjacent to and abutting

A sidewalk café may be located on the public sidewalk immediately adjacent to and abutting the indoor food serving establishment which operates the café provided that the area in which the sidewalk café is located extends no farther along the sidewalk length than the adjacent sidewalk along the side of the indoor food serving establishment.

d. Side Street – Curbside

A sidewalk café may be located on the public sidewalk at least three (3) feet from the face of curb provided that the area in which the sidewalk café is located extends no farther along the sidewalk length than the adjacent sidewalk along the side of the indoor food serving establishment.

6. Sidewalk Clearances

A sidewalk café may be permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed café. A sidewalk café shall not occupy more than 50 percent of the sidewalk width (edge of building to face of curb) at any point and not less than five (5) consecutive feet of sidewalk width at every point shall be kept clear and unimpeded for pedestrian traffic.

7. Tables and Chairs, Location and Requirements of Furniture.

All tables and chairs comprising a sidewalk café shall be set back not less than three feet from any curb and from any sidewalk or street barrier, such as, but not limited to, a bollard, and shall not be situated within eight feet of any designated bus stop. Sidewalk cafés shall not block access to trash cans, parking meters, newspaper racks, or other items in the public right-of-way. No tables or chairs or other furniture shall be placed in front of any door used for entrance or exiting of the building. Aisles must be maintained a minimum width of 44”.

All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable. Said furniture shall be arranged to adequately accommodate persons with disabilities including the visually impaired. Umbrellas must be secured with a minimum base of not less than 60 pounds. Outdoor music or speakers shall be prohibited. Outdoor heaters are allowed with the appropriate fire, building, and safety requirements.

8. Signage

No off-site signage is allowed. Any signage proposed for the sidewalk café shall be reviewed by the Planning Division for compliance with the Sign Ordinance, and shall be subject to a sign permit review fee. Menus may be displayed.

9. Food and Beverages

A sidewalk café may serve only food and/or beverages prepared or stocked for sale at the adjoining indoor food serving establishment; provided, however, that the service of beer or wine, or both, solely for on-premises consumption by customers within the area of the sidewalk café may be authorized by the Public Works Director as part of his/her conditional encroachment permit approval if each of the following requirements are met:

- a. The area in which the sidewalk café is authorized is identified in a manner, as approved by the Public Works Director, which will clearly separate the delineate it from the areas of the sidewalk which will remain open to pedestrian traffic.
- b. One or more signs, as approved by the Public Works Director, are posted, during all times the sidewalk café is in operation, which shall give notice to the café's customers that the drinking of beer or wine or the carrying of any open container which contains beer or wine is prohibited and unlawful outside the delineated area of the sidewalk café.
- c. The sidewalk café operation is duly licensed, or prior to the service of any beer or wine at the café, will be duly licensed, by State authorities to sell beer or wine, or both, for consumption within the area of the sidewalk café.

10. Service Requirements

The outdoor preparation of food is prohibited at sidewalk cafés. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited. All exterior surfaces within the café shall be easily cleanable and shall be kept clean at all times by the permittee. If adjoining food server is a restaurant, restrooms for the café shall be provided in the adjoining indoor restaurant.

Covered trash and refuse storage for the sidewalk café must be provided and the permittee shall remove all trash and litter as they accumulate. The permittee is responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent areas, in a clean and safe condition.

11. Days and Hours of Operation

Sidewalk cafés shall not open before 6:00 a.m. nor remain open past 11:00 p.m., seven days a week. The hours of operation of the sidewalk café shall not extend beyond the approved hours of the adjoining indoor food serving establishment. Tables, chairs, and all other furniture used in the operation of the outdoor café shall be removed from the sidewalk and stored indoors whenever the sidewalk café is not in operation.

If the sidewalk café operates during the darkness hours, adequate lighting must be provided so that the furniture does not become an obstacle to pedestrians.

The City shall have the right and power, acting through the City Manager or his/her designee, to prohibit the operation of a sidewalk café at any time because of anticipated or actual problems or conflicts may arise from, but are not limited to, scheduled festivals and similar events, or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. To the extent possible, the permittee shall be given prior written notice of any time period during which the City will prohibit the operation of the sidewalk café, but any failure to give prior written notice shall not affect the right and power of the City to prohibit the café's operation at any particular time.

12. Findings and Conditions

In connection with granting approval for any conditional encroachment permit for a sidewalk café, the Public Works Director shall make findings that the proposed operation meets the limitation of this article and the Public Works Director may impose such conditions in granting his/her approval as he/she deems are needed to assure that the proposed operation will meet the operating requirements and conditions set forth in this article and to assure that the public safety and welfare will be protected.

13. Term and Renewal

A conditional encroachment permit for a sidewalk café may be approved by the Public Works Director for a maximum period of one year. Thereafter, the Public Works Director, is an extension application is filed prior to any expiration date of the encroachment permit, may extend the permit for additional periods, not to exceed one year each, following his/her review and approval of the café's operations. In the event the Director considers additional or revised conditions are necessary and should be imposed if the permit is to be extended or if the Director is of the opinion that the permit should not be extended at all, he/she shall refer the application to the Planning Board which shall hold a public hearing and therefore decide the matter. The permittee shall pay all applicable Planning Board fees. The Planning Board may make any extension of a conditional encroachment permit subject to such additional and revised conditions and requirements as it deems appropriate or necessary and any extension granted by the Planning Board shall not exceed a period of one year.

14. Revocation

A conditional encroachment permit may be revoked by the Public Works Director, following a ten (10)-day notice to the permittee, upon a finding that one or more conditions of the permit or of this article have been violated or that the sidewalk café is being operated in a manner which constitutes a nuisance, or that the operation of the sidewalk café unduly impedes or restricts the movement of pedestrians past the sidewalk café. The permittee may appeal said revocation to the Planning Board and pay all applicable fees.

15. Liability

The permittee shall be responsible for all liability imposed by law for personal injury or property damage proximately caused by work permitted and done by permittee under permit or proximately caused by failure on the permittee's part to perform his/her obligations under said permit in respect to maintenance. Permittee shall sign City-supplied liability document. If any claim of such liability is made against the City of Alameda, its officers, or employees, permittee shall defend, indemnify, and hold them, and each of them, harmless from such claim insofar as permitted by law.

16. Evidence of Insurance

Property owner shall furnish City, concurrently with the final execution of the permit, with satisfactory evidence of insurance required by the City (\$500,000 per occurrence, \$1 million aggregate), and evidence that each carrier is required to give the City at least thirty (30)-days prior notice of the cancellation or reduction in coverage of any policy during the effective period of this Permit.

17. Application Procedure

Application shall be made in Room 190 of the Alameda City Hall. At the time of application, all applicable fees shall be paid. A site plan must be submitted showing the area adjacent to the food serving establishment. This site plan must show dimensions from the curb back to the building and must show all objects within this area including trees, tree wells, parking meters, City trash receptacles, planters (both public and private) and all other items. The doorway to the establishment must be shown. The distance to the doorway of the adjacent business establishments on either side of the business must be shown if the doorway is within five (5) feet of the side line of the business. The area to be used for the sidewalk café is to be shown on the site plan with all dimensions.