



CITY OF CAÑON CITY

Engineering Department

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EXHIBIT 1

SIDEWALK CAFÉ PERMIT REQUIRED AND PROCEDURES

I. PURPOSE

These standards and procedures are adopted pursuant to Resolution No. 21, Series of 2020 adopted by the Council of Cañon City in order to encourage appropriate outdoor activities in the public right-of-way, to ensure that the space used for outdoor dining in the public sidewalk will serve a public purpose, to ease the process of obtaining permission to operate an outdoor dining facility, and to ensure the safety of and provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafés.

II. DEFINITIONS

“Sidewalk Café” means an outdoor dining area on a public sidewalk where patrons may consume food and/or beverages provided by an abutting food service establishment. Such establishments may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor dining area. A Sidewalk Café does not include outdoor dining on private property.

III. GENERAL PROVISIONS

- A. **Permitted locations.** Sidewalk Cafés will be permitted only on the public sidewalks designated at Attachment A, attached hereto.
- B. **Indemnification.** The Permittee shall defend, indemnify and hold the City and its employees harmless from and against any loss or damage arising from the use or existence of the improvements or encroachment authorized under a Sidewalk Café Permit.
- C. **Insurance.** The Permittee shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000.00) covering the Permittee's operations on the sidewalk. Such insurance shall name, on a Special Endorsement form, the City, its elected and appointed boards, officers, agents and employees as additional insureds. A Certificate of Insurance shall contain provisions that prohibit cancellations, modifications, or lapse without thirty (30) days prior written notice to the City.

- D. **Management.** The Permittee shall operate the outdoor dining area in compliance with the terms and conditions of this permit and shall not delegate or assign that responsibility. The Permittee shall ensure that sidewalk café patrons do not disturb persons on the adjacent right-of-way by loud, boisterous, and unreasonable noise, offensive words or disruptive behavior.
- E. **Maintenance.** The Permittee shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items unless public trash receptacles located nearby are determined to be adequate by the City Engineer. At the end of each business day, establishments are required to clean (sweep and wash) the entire sidewalk in and around the outdoor dining area and remove debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street. Awnings and umbrellas shall be washed whenever they are dirty and, in any event, no less than two times each year. Private trash receptacles shall be emptied daily.
- F. **Smoking.** Smoking within the Sidewalk Café shall be subject to all applicable statutes and regulations.
- G. **Disabled access.** The outdoor dining area shall be accessible to the disabled, and buildings adjacent to these dining areas shall maintain building egress as defined by the International Building Code and other applicable standards adopted and enforceable in the City which include Title II of the Americans with Disabilities Act, Public Rights of Way Accessibility Guidelines (PROWAG), and the 2010 ADA Standards for Accessible Design (ADAAG).
- H. **Inspection.** The City Engineer or his designee may inspect improvements within the public right-of-way at any time without notice to the Permittee.

IV. PERMIT REQUIRED

- A. **Permit required.** Sidewalk Café may occur only pursuant to a "Sidewalk Café Permit" issued by the City Engineer.
- B. **Permit limitations.** Issuance of a Sidewalk Café permit does not imply that all governmental agency requirements for starting a new restaurant or expanding an existing one have been satisfied. Business owners are responsible for securing and complying with all required licenses and permits from other agencies.
- C. **Authority of the City Engineer.** The configuration and design of a Sidewalk Café shall be approved by the City Engineer if the permit is in

compliance with the development and design standards in Attachment B and after the City Engineer has determined that the specific proposal does not create public safety issues unique to the pedestrian and vehicular needs of the specific location. The City Engineer shall have the authority to apply the conditions set forth in Attachment B or other special conditions may be applied as deemed appropriate to the approval of Sidewalk Café Permits as appropriate to ensure compliance with the provisions of this policy. Notwithstanding any other provisions of this policy, the City Engineer shall have the authority to deny a Sidewalk Café permit application if it is determined to be detrimental to public health, safety or general welfare. The decision of the City Engineer may be appealed to the City Administrator by the applicant. The decision of the City Administrator shall be final.

V. APPLICATION PROCEDURE

- A. A Sidewalk Café Permit shall be required for all encroaching furniture and improvements related to outdoor dining. The application shall be filed with the City Engineer on a form provided by the City Engineer.
- B. The application shall be signed by the owner of the business that will operate the Sidewalk Café or the owner's authorized agent. Authorized agents shall submit written authorization.
- C. If the applicant intends to use sidewalk area in front of adjacent properties as part of their sidewalk café, they shall include with their application signed permission from authorized agents of the adjacent property owners.
- D. The application shall be accompanied by a site plan, drawn to scale and fully dimensioned, which accurately depicts the location, height, nature and extent of all proposed improvements and objects within the encroachment zone. All fixed features such as tree wells, planters, public art, sign and lamp posts, benches, bicycle racks, fire hydrants, etc. within twenty feet (20') of the encroachment zone shall be depicted on the site plan.
- E. Any alterations of the sidewalk shall be described/illustrated in the Sidewalk Café permit application. Alterations to the sidewalk or coverings of the sidewalk will be allowed if all other standard conditions continue to be met and provisions for repairing the sidewalk are established in the permit and agreed to in writing by the owner of the business or property in which the business is located in the event that the Sidewalk Café or portions thereof are removed.
- F. Prior to issuance of the Sidewalk Café Permit the applicant shall provide both the Certificate of Insurance and the completed standard Special

Endorsement in a form meeting the approval of the City Engineer and the City Attorney.

VI. TERM

A valid Sidewalk Café permit shall remain in effect until the termination date specified on the permit or sooner if surrendered or revoked.

VII. TERMINATION, REVOCATION OR TRANSFER OF PERMIT

- A. A Sidewalk Café Permit issued by the City shall evidence the temporary grant of revocable privilege to a business operator to use a portion of the City's sidewalks in a manner consistent with the requirements and limitations set forth or referred to in the permit for purposes that are compatible with the nature and character of other activities regularly occurring on City sidewalks within the City's central business district. No grant of any permit authorized hereunder shall constitute a vested right for the benefit of any person.
- B. **Termination.** Upon termination of the Sidewalk Café Permit, the Permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk. Any personal property remaining on the premises shall be removed pursuant to the laws of the State of Colorado and the City.
- C. **Revocation.** The City Engineer may revoke a Sidewalk Café permit at any time if it is determined that continued operation of the sidewalk café is detrimental to the public interest or the Permittee is in violation of conditions of an approved permit.
- D. **Abatement.** In the event that a Permittee fails to abide by the terms and conditions of an approved permit, the City Engineer may summarily abate any prohibited improvements and the Permittee shall pay all costs incurred by the City in such abatement. The Permittee or property owner may appeal the decision of the City Engineer to the City Administrator. The determination of the City Administrator with respect to abatement shall be final.
- E. **Permit transfer.** A Sidewalk Café permit may be transferred to a subsequent operator of the same establishment provided that the transferee shall continue to operate under the same terms and conditions of the approved permit.

ATTACHMENT A

SIDEWALK CAFÉ ZONES

SIDEWALKS UPON WHICH SIDEWALK CAFÉS ARE PERMITTED

- Main Street between 2nd Street and 9th Street
- 2nd Street between Macon Avenue and Royal Gorge Boulevard
- 3rd Street between Macon Avenue and Royal Gorge Boulevard
- 4th Street between Macon Avenue and Royal Gorge Boulevard
- 5th Street between Macon Avenue and Royal Gorge Boulevard
- 6th Street between Macon Avenue and Royal Gorge Boulevard
- 7th Street between Macon Avenue and Royal Gorge Boulevard
- 8th Street between Macon Avenue and Royal Gorge Boulevard
- 9th Street between Macon Avenue and Royal Gorge Boulevard

ATTACHMENT B

SIDEWALK CAFÉ DEVELOPMENT AND DESIGN STANDARDS

I. HORIZONTAL CLEARANCE AND SETBACKS

- A. A clear, continuous pedestrian path a minimum of 5-feet in width shall be maintained for pedestrian circulation on the sidewalk outside of the outdoor dining area, connecting elements in the right-of-way such as, but not limited to, curb ramps, benches, and storefronts.
- B. The City Engineer may require up to 8-feet clear width on the sidewalk in areas with heavy pedestrian traffic or at street corners.
- C. When an outdoor dining area is located at a street corner, a 10-feet setback from the corner shall be maintained along both frontages. When an outdoor dining area is located adjacent to a driveway or an alley, a 5-feet setback shall be maintained from the driveway or alley. (This requirement may be reduced at the discretion of the City Engineer where unusual circumstances exist and where public safety will not be jeopardized, e.g., the sidewalk adjacent to the proposed outdoor dining area is wider than usual or the perimeter of the building has an unusual configuration.)
- D. As used herein, pedestrian path means a continuous obstruction-free sidewalk area between the outside boundary of the dining area and any obstruction, including but not limited to street trees, landscaping, sign and lamp posts, benches, public art, and curb lines. The pedestrian path must meet accessibility standards, including but not limited to surface type, smoothness, slope, and cross-slope.

II. BARRIER AND FENCES

- A. Barriers such as fences and other similar objects to delineate the Boundary of the Sidewalk Café are permitted. Establishments operating a Sidewalk Café are encouraged to provide a barrier fence to delineate the exclusive use area from the public environment of the sidewalk.
- B. Sidewalk Cafés, within which alcohol is served, shall be enclosed by a combination of a building facade and barrier fence, creating a continuous barrier, with the barrier fence being at least 36 inches in height up to a maximum of 42 inches in height. An entry opening, which may include a gate, is permitted provided that any gate complies with all requirements of the Building Code.

- C. A Sidewalk Café within which alcohol is served must be operated and maintained by an establishment possessing a valid beer/liquor license provided that the related liquor license identifies the Sidewalk Café within the premises area.
- D. Establishments that do not serve alcoholic drinks within the Sidewalk Café are not required to provide a barrier fence. In such instances Sidewalk Café furniture should be clearly distinguishable from the standard public sidewalk furniture.
- E. Barrier fences will complement the building facade, nearby street furniture and the historical character of downtown and shall be somewhat transparent. Appropriate designs may include but at not limited to the following:



- F. Barriers must be constructed and installed in a manner so that they are strong and durable enough to withstand weather elements (especially wind) and incidental impacts by pedestrians so as not to present a hazard.

- G. Whenever a barrier of any type is installed it shall be a minimum of 27 inches to be detectable for vision-impaired pedestrians.



- H. When barrier fences are provided creative solutions and the use of plant material are encouraged to help invigorate the public environment. Appropriate designs may include but at not limited to the following:



III. PLANTS

- A. Plants shall be properly maintained. Stressed or dying plants shall be promptly replaced. Because plant fertilizers contain material that can stain the pavement, water drainage from any plants onto the adjacent sidewalk shall not be allowed. Potted plants shall have saucers or other suitable systems to retain seepage and be elevated to allow for air flow of at least one inch (1") between saucers and sidewalk.
- B. An outdoor dining area may incorporate street trees or street landscaping, provided that the required pedestrian path is maintained outside the outdoor dining area.

IV. AWNINGS, CANOPIES, AND UMBRELLAS

- A. The use of awnings over the outdoor dining area and removable table umbrellas are permitted provided they do not interfere with street trees, pedestrian traffic or otherwise jeopardize public health, safety or welfare as determined by the City Engineer. A building permit must be obtained prior to installation of an awning or canopies.
- B. Awnings and canopies that are less than 15 feet above the sidewalk shall not extend more than two-thirds the width of the sidewalk as measured from the building.
- C. Appropriate designs may include but are not limited to the following:



V. LIGHTING

- A. Outdoor lighting fixtures should complement the style of the building lighting fixtures shall not be glaring to motorists or pedestrians on the adjacent right-of-way, and shall illuminate only the outdoor dining area. Outdoor lighting may be installed on the facade of the building. Lighting shall be installed by a licensed electrician under an electrical permit from the State of Colorado. Battery operated lamps or candles are permitted.

VI. DESIGN

- A. The design, material, and colors used for chairs, tables, umbrellas, awnings and other fixtures should complement the architectural style and colors of the building facade and street furniture.

VII. SIGNS

- A. Notwithstanding any other provision in the Municipal Code, signs and logos, other than that of the business, shall be permitted on umbrellas or barriers in outdoor dining areas.

VIII. MENU BOARDS

- A. Boards that display the café menu shall be allowed within the Sidewalk Café or as an attachment to the barrier that delineates its boundary provided that said menu boards do not exceed one and one-half square feet.



IX. SECURED FIXTURES

- A. All related furniture and fixtures associated with a Sidewalk Café that can be moved or easily removed from the site shall be secured in an appropriate manner to prevent theft and damage. Removal of such furniture and fixtures from the public space for storage in a secured building during non-business hours is acceptable security.

X. PROTRUDING OBJECTS

- A. Elements of the outdoor dining area that protrude must not reduce the clear width of the pedestrian access routes. (Examples of protruding objects include but are not limited to awnings, barriers and planters, flags, sandwich board signs, lighting, and art.)
- B. Any object mounted above 27-inches and below 80-inches shall not protrude into the pedestrian access route more than 4-inches horizontally.
- C. Objects mounted between 27-inches and 80-inches on free-standing posts cannot overhang more than 4-inches.
- D. Posts with a base must have a minimum base thickness of 2.5-inches.
- E. Objects mounted between posts that are more than 1-foot apart shall have their leading edges mounted at 27-inches maximum or 80-inches minimum.

XI. CAFÉ FLOOR

- A. The proposed plan must include any planned alterations of the sidewalk, coverings of the sidewalk, and/or changes to elevation/level of the floor of the dining area relative to the sidewalk surface.

XII. ACCESSIBILITY

- A. Any features placed in the right-of-way, including elements of the outdoor dining area must be accessible. Including, but not limited to, benches, trash cans, gates, and tables.
- B. Features that must be accessible are elements with operable parts with proper reach ranges, clear and maneuverable spaces, knee/toe and other clearances, routes, paths, walking surfaces, ramps, and others that may be identified.

XIII. HEATING

- A. The installation of radiant heating devices may be permitted within the sidewalk cafés, for the purpose of maintaining a comfortable temperature for café patrons during cooler seasons.
- B. Café operators are required to take precautions to minimize personal and property risks associated with the use of radiant heating devices as these devices present additional risk factors.

- C. Heaters must be located away from canopies and root systems of street trees at a distance satisfactory to the City Forester.
- D. Storage of the heating devices and propane tanks shall be in accordance with local rules and regulations.

XIV. ENCLOSURES

- A. An enclosed sidewalk café is an area on the public sidewalk in front of the restaurant that is enclosed higher than 42-inches above the ground on one or more sides and is covered, constructed predominantly of light materials such as glass, plastic, or lightweight metal.
- B. Enclosed sidewalk café allowance is seasonal. Enclosure of sidewalk cafes shall only be allowed from October 1 thru April 30.
- C. Structures and frames of enclosed sidewalk cafés shall be temporary in nature and removable.
- D. No permanent lighting fixtures and HVAC installations may be installed in the enclosed sidewalk café.
- E. The furnishings of the interior of an enclosed sidewalk café shall consist solely of moveable tables, chairs and decorative accessories.
- F. Enclosed sidewalk cafés will require a building permit, which will include review by the fire inspector, and may require some level of engineering in accordance with the building code.
- G. Enclosed sidewalk cafés must be constructed of noncombustible materials.
- H. Elements of an enclosed sidewalk café shall NOT obstruct exit from a building, fire escape, mechanical ventilation, signage, or standpipe connections. Egress from a building must not require passing through the enclosure via a secondary door. No portion of the enclosed sidewalk café, such as doors, windows, walls or any object placed with an enclosed café, shall swing or project beyond the designated perimeter of the café.
- I. No signs are permitted to be attached to the enclosure except the name and type of the establishment as allowed.
- J. Structures and frames for enclosed sidewalk cafés shall NOT require any more foundation than what the sidewalk concrete surface provides.

- K. Structures and frames for enclosed sidewalk cafés shall NOT be attached to a building and shall NOT rely on a permanent structure for any support.
- L. There shall be a minimum distance of 40-feet between the near end walls of two enclosed sidewalk cafés if an entrance to a ground floor commercial use, other than an entrance to the restaurant associated with the café, is located between them.
- M. At no point shall the height of the ceiling of the enclosed sidewalk café be lower than 7-feet 6-inches above the floor of the sidewalk café.
- N. An enclosed sidewalk café may have a base barrier/wall of opaque material up to a maximum of 42-inches above the floor of the sidewalk café. The base barrier/wall shall include horizontal structural members that support transparent materials above.

All enclosing walls, doors and windows, except for the structural members, above base barrier/wall up to 7-feet must be colorless, un-tinted, non-reflective, transparent material, such as *plexi-glass* or lightweight acrylic sheeting, as approved.

The horizontal as well as vertical structural members shall NOT exceed a width of 10-inches.