

(O-83-55 REV.)

ORDINANCE NUMBER O- 15834 (New Series)

Adopted on OCT 11 1982

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,  
DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY  
ADDING SECTION 101.0550, RELATING TO SIDEWALK  
CAFES

BE IT ORDAINED, by the Council of The City of San Diego, as  
follows:

Section 1. That Chapter X, Article 1, Division 5, of the  
San Diego Municipal Code be, and the same is hereby amended by  
adding Section 101.0550, to read as follows:

SEC. 101.0550 SIDEWALK CAFES

A. PURPOSE AND INTENT

The sidewalk cafe regulations as established in  
this ordinance have City-wide applicability, are  
designed to encourage sidewalk cafes in commercial  
areas to promote and protect public health, safety,  
and general welfare and to provide for the creation of  
a more urban pedestrian environment. These general  
goals include among others the following specific  
purposes:

1. To encourage and promote sidewalk cafes  
as visual amenities which in turn intensify  
pedestrian activities and make the street life  
more attractive.

2. To preserve and enhance the character of neighborhoods throughout the City.

3. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

Sidewalk cafes will be permitted by the Planning Director only after a review of the specific proposed location and the criteria listed herein.

**B. DEFINITION**

A "sidewalk cafe" is an area adjacent to a street level eating or drinking establishment, and is located within the sidewalk area of the public right-of-way, and is defined by railings or fencing which separates the encroachment area from the remainder of the sidewalk, and is used exclusively for dining, drinking and circulation therein. A sidewalk cafe may provide either waiter or waitress service or self-service.

**C. DEVELOPMENT CRITERIA**

1. Sidewalk Cafe Development and Design Criteria.

a. Clear Path.

There shall be a minimum clear distance of fifty percent of the distance from the property line to the curb line, but in no event less than eight feet of paved sidewalk, free of all obstructions, in order to allow adequate pedestrian movement

The minimum distance shall be measured from the portion of the sidewalk cafe frontage which is nearest either the curb line or the nearest obstruction within the sidewalk area. In no event may recesses in the sidewalk cafe frontage be used to satisfy this unobstructed width requirement. A clearance of eight feet shall be maintained around the corners of sidewalk cafes, measured in radius.

For the purpose of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall constitute obstructions.

An exception to the minimum clear path distance and paved sidewalk width may be granted after a review of pedestrian volumes and existing street conditions by both the Planning Department and Engineering and Development Department.

b. Clearance at Intersections of Street Line.

A sidewalk cafe shall be permitted on one side of an establishment located at a street intersection. There shall be a

minimum of nine feet clearance, free of all obstructions measured from the outer edge of the sidewalk cafe to the curb side or obstruction.

c. Cafe Boundary.

No portion of a sidewalk cafe, such as gates or any objects placed within a sidewalk cafe, shall swing or project beyond the designated exterior perimeter of the sidewalk cafe.

2. General Design Consideration.

a. Fixtures.

The furnishing of the interior of a sidewalk cafe shall consist solely of moveable tables, moveable chairs, and moveable umbrellas. Landscaping may be placed either in moveable planters or planted in the ground inside the defined cafe area adjacent to the railing or fence. Lighting fixtures may be permanently affixed onto the exterior front of the main building.

b. Signage.

No signs are permitted on a sidewalk cafe except that the name and type of establishment may appear on umbrellas or

the valance of an awning.

c. Refuse Storage Area.

No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to or separate from the sidewalk cafe on the public right-of-way.

3. Safety.

a. Lighting, Railings.

Adequate lighting and provision of barriers and railings for stairways, sunken sidewalks and sidewalk cafes shall be provided. The barriers shall be adequately designed so that unsafe conditions are not created for the physically disabled, blind and partially sighted. No cantilevered projections shall be permitted. A change in paving pattern and texture may be required to alert pedestrians of a change in sidewalk use.

b. Awnings or Umbrellas.

Awnings or umbrellas may be used in conjunction with a sidewalk cafe. Awnings shall be adequately secured, retractable and shall be constructed and installed in conformance with Section 91.02.4506 of the

Municipal Code. At no point shall the height of the awning including the valance be less than 7'0" feet from the floor of the sidewalk cafe.

4. Environmental Compatibility.

a. General.

1) The sidewalk cafe should fit in with the character of an area and reinforce the aspect of outdoor pedestrian plaza/park settings.

2) The scale of the cafe should be compact, suggest intimacy, charm and functionality through materials, landscaping, signs and use.

3) Musical instruments or sound reproduction devices shall not be operated or used within a sidewalk cafe. The boundary of the sidewalk cafe area, which is generally defined by railings or fences, shall be construed to be a property line solely for purposes of enforcement of the Noise Abatement and Control ordinance of this code, Section 59.5.0101 et seq.

4) Cafes must remain clear of litter at all times.

5) The hours of operation of a sidewalk cafe shall be limited to the hours of operation of the associated eating or drinking establishment.

b. Planters, Railings, or Fences.

All railings or fences placed around a sidewalk cafe shall be permanently fixed to the sidewalk to clearly define the area. Landscaping can be either in planters or planted in the ground. In order to maximize visual access, the height of the railing or planter including the vegetation therein, shall not obstruct reasonable visibility from the sidewalk.

c. Elevation.

The sidewalk cafe should be at the same elevation as the adjoining sidewalk. However, in the event of a grade change, consideration may be given to permit the floor level of the sidewalk cafe to be elevated or depressed.

d. Minimum Distance Between Sidewalk Cafes and Adjacent Business Entrance.

No portion of a sidewalk cafe shall be located within eight feet of the entrance to a ground floor commercial use other than an entrance to a sidewalk cafe.

An exception to the minimum distance between sidewalk cafes and adjacent business entrances may be granted after a review of existing conditions in that commercial area and on that particular street by both the Planning Department and Engineering and Development Department. No exceptions shall be granted unless it is agreed to, in writing by the adjoining property owner.

**D. ADMINISTRATION AND ENFORCEMENT**

**1. Administration**

The Planning Director or his designated representative shall review, approve, conditionally approve or disapprove all applications for Sidewalk Cafe permits.

**2. Requirements for Application.**

Application for a Sidewalk Cafe Permit shall be made to the Planning Department according to the following procedures:

a. Application for a Sidewalk Cafe Permit shall be made by the owner or owners of the property on which the development is



proposed. The application is to be filed with the Planning Department on the appropriate form accompanied by adequate plans for improvements and a legal description of the property.

b. A fee or deposit schedule shall be established by the Planning Director and shall be sufficient to provide full cost recovery to the City for the total costs of review, issuance and administration of the permit.

c. The application shall be accompanied by plans indicating: The proposed use, materials, and design; relationship of proposed encroachment to the curb, existing buildings, and buildings on either side; floor plans of the existing building; location of utilities that might affect or be affected by the proposal; existing and proposed public improvements; existing or projected pedestrian traffic movements.

E. DECISION OF THE PLANNING DIRECTOR

1. If the Planning Director or his designee determines that the application is complete and conforms with all City regulations, policies, guidelines, and design standards, a Sidewalk Cafe Permit shall be granted.

The Planning Director shall consider the following in his decision:

a. The width of the sidewalk where the cafe will be located.

b. The design and relationship of the cafe to other existing or planned uses on a particular street.

c. The amount of pedestrian use on the sidewalk and the impact of the cafe's location on potential pedestrian activity.

2. In order to approve the permit, after considering the criteria in (1) above, the Planning Director or his designee shall make the following findings:

a. That the location of a sidewalk cafe in a particular area will not adversely affect the neighborhood, and will implement the goals of the Progress Guide and General Plan and Community Plan.

b. That the proposed use will not be detrimental to persons residing, visiting or working in the area.

c. The proposed use will comply with all relevant regulations in the Municipal Code, and all applicable building laws including state laws and regulations.

3. The Planning Director shall not approve any Sidewalk Cafe Permit unless the proposed

development has been publicly noticed at least thirty days prior to the decision of the Planning Director in the official City newspaper and by mail, to all property owners of record within three hundred feet of the proposed development, to the affected community planning groups and any other group or organization which has requested such notification.

**F. APPEAL FROM THE DECISION OF THE PLANNING DIRECTOR**

1. An appeal from the decision of the Planning Director on an application for a Sidewalk Cafe Permit shall be governed by the provisions of Municipal Code SEC. 62.0413(b).

If an appeal is filed within the time specified, it shall automatically stay proceedings in the matter.

**G. OTHER APPLICABLE REGULATIONS**

1. Encroachment Permit.

An Encroachment Permit shall be required for a sidewalk cafe according to the provisions of Municipal Code, SEC. 62.0301 et seq. and shall be applied for and processed concurrently with the application to the Planning Director for a Sidewalk Cafe Permit. An appeal from the decision of the City Engineer will be made to the Public Facilities and Recreation Committee. Such appeal shall be governed by the provisions of Municipal Code SEC. 62.0413(b).

If an appeal is filed within the time specified, it shall automatically stay proceedings in the matter.

2. Appeal Process for Exception to Sidewalk Clear Path Width and Distance Between Cafes and Adjacent Business Entrance.

An appeal from the decision granting or denying an exception for either the clear path for sidewalks and the distance between sidewalk cafes and adjacent businesses shall be made to the Public Facilities and Recreation Committee accompanied by a report prepared both by the Planning Department and the Manager's Office. Such appeal shall be governed by the provisions of Municipal Code SEC. 62.0413(b).

If an appeal is filed within the time specified, it shall automatically stay proceedings in the matter.

3. Insurance Policy.

A Public Liability Insurance Policy of at least \$500,000 shall be required before approval of an encroachment removal agreement. Such liability insurance shall be provided in a form and an amount acceptable to the City Engineer. The Policy shall name The City of San Diego as an additional insured and shall be maintained at all times.

4. Permitted Location.

The sidewalk cafe shall be permitted only in conjunction with an eating or drinking establishment which is operating on the contiguous adjacent private property.

5. Access for Persons with Physical Disabilities.

A sidewalk cafe shall be accessible to the physically handicapped. The Building Official shall review every sidewalk cafe permit application in order to ensure compliance with Title 24, Part 2 of the California Administrative Code for making buildings accessible to the physically handicapped and any other state or local regulations which the building official enforces. Permits from the Building Inspection Department may be required as a result of achieving said compliance.

H. TERM OF SIDEWALK CAFE PERMIT AND ENCROACHMENT PERMIT

All Sidewalk Cafe permits shall have an indefinite term, but shall be subject to termination at any time on thirty day prior written notice upon the determination of the Planning Director that one or more of the conditions or provisions of the permit have been violated or that a change of circumstances has occurred which warrants or requires such termination. The Decision of the Planning Director to terminate a permit is subject to the same appeal provisions contained above applicable to issuance of a

Sidewalk Cafe Permit. All encroachment permits are likewise terminable by the City Engineer on thirty days prior written notice and any such termination is appealable as set forth in Paragraph G.1.

I. AMENDMENT TO SIDEWALK CAFE ORDINANCE

These regulations are subject to rescission or amendment at any time by the City Council. No person or entity shall as a result of adoption of these Sidewalk Cafe regulations be entitled to the issuance of a permit and any and all permits shall be granted or denied, rescinded or modified at the discretion of the City Engineer, Planning Director, Planning Commission or City Council as provided herein without liability of any kind whatsoever. Furthermore, no person or entity to which any permit has been granted hereunder shall have any vested interest in maintaining permitted improvements in the event it is determined pursuant to the provisions hereof to modify or terminate any such permit.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By Thomas F. Steinke  
Thomas F. Steinke  
Deputy City Attorney

TFS:arb:630  
0-83-55  
8/13/82 Rev. 9/21/82  
Or.Dept.:Plan.

OCT 11 1982

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_  
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its ~~introduction~~ <sup>re-introduction</sup> and the day of its final passage, to wit, on

SEP 27 1982

OCT 11 1982

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15834 Adopted OCT 11 1982