

MUST BE RECEIVED, IN COMPLETE FORM, BY THE PUBLIC WORKS DEPARTMENT  
NO LATER THAN 5:00 PM, FRIDAY, FEBRUARY 1, 2019

2019 PRELIMINARY APPLICATION FOR A  
SIDEWALK CAFÉ LOCATED ON  
A STREET or WITHIN A CITY OWNED PLANTER

DATE APPLICATION RECEIVED: \_\_\_\_\_

Please direct questions to the Public Works Department, at (319) 356-5139.

PRELIMINARY APPLICATION FOR SIDEWALK CAFÉ LOCATED  
ON A STREET or WITHIN A CITY OWNED PLANTER

*\*\*Please note, if the proposed café is not located on a street, a preliminary application is not necessary and applicant may submit a full Sidewalk Café Application.*

1. Business Name: \_\_\_\_\_
2. Business Address: \_\_\_\_\_
3. Contact Person: \_\_\_\_\_
4. Mailing Address: \_\_\_\_\_
5. Phone Number: \_\_\_\_\_
6. Email Address: \_\_\_\_\_

*Attach a drawing of the proposed café, including all dimensions and its relationship to existing parking areas or planters. The drawing may be computer or hand drawn.*

Proposed sidewalk café must comply with the Sidewalk Café Policy adopted by Resolution #12-414 and governed by Section 10-3-3 of the City Code.

If competing applications are received for the same block or planter, a lottery will be held to allocate space for the sidewalk cafes. Applicants will be notified after February 15<sup>th</sup> of the lottery results. The winning applicant will then have until March 15<sup>th</sup> to submit a full Sidewalk Café Application, which shall include a professional stamped drawing (completed by an architect or engineer).

If the applicant is not an individual, the person signing this preliminary application acknowledges that he or she has the authority to act on behalf of the business that is requesting the sidewalk café.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Return Completed Application to:  
Public Works Department  
Attn: Sidewalk Cafes  
410 E. Washington Street  
Iowa City, IA 52240

All questions can be directed to the Public Works Department at (319) 356-5139.



NOTICE OF DECISION GRANTING OR DENYING THE APPLICATION

The application is approved: \_\_\_\_\_

The application is denied because: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Public Works Director



## ADMINISTRATIVE POLICY FOR SIDEWALK CAFÉ LOCATED ON STREET or PLANTER

The following are the Administrative Policy pertaining specifically to Sidewalk Cafes located on a street. To see the complete Administrative Policy pertaining to Sidewalk Cafes, please go to [http://www.icgov.org/site/CMSv2/file/engineering/SidewalkCafeAdministrativePolicy\(12-414\).pdf](http://www.icgov.org/site/CMSv2/file/engineering/SidewalkCafeAdministrativePolicy(12-414).pdf)

### Cafes on the Street

1. An establishment cannot operate a café in the street if there is sufficient room on the sidewalk for a café with an area of at least one-hundred twenty square feet (120 sq. ft.).
2. There shall be a minimum four foot (4') buffer on either end of the café for safety reasons. These buffers shall be established and maintained by the City and may be used for moped parking and/or bicycle parking. The buffer is subject to the annual fee. As used in this policy, the term sidewalk café area does not include the 4-foot buffer.
3. The sidewalk café area may not include the portion of the parking space beyond the building line extended. The 4-foot buffer may be located beyond the building line extended.
4. Cafes, including the 4-foot buffer, in each block face cannot utilize more than thirty percent (30%) of the total parking spaces in that block face.
5. Cafes cannot be located in loading zones.
6. Cafes cannot be set up before April 1 and shall be removed no later than the Tuesday following the last University of Iowa home football game. Cafes may have to be removed temporarily at the café owner's sole expense to accommodate an event on the street permitted by the City (e.g., criterium).
7. The portion of the café located on the street shall be on a platform. The design features of the platform shall be submitted with the application. The platform shall not impede drainage in the street gutter.
8. The area for a sidewalk cafe shall be delineated by anchored fencing. Fencing shall be constructed of a durable material, such as steel, aluminum, or wrought iron. Wood fencing shall not be allowed. The City shall approve the design.
9. If stored outdoors, tables, chairs, and other items shall be secured within the anchored fencing at the end of each day's operation so that they are unusable.
10. Planters with flowers and/or other vegetation are allowed as an alternative to anchored fencing to delineate the sidewalk café. The design of the planters shall be approved by the City Manager, or designee, subject to the following limitations:
  - a. The planters shall be fastened to the platform.
  - b. The planters shall not be less than twenty seven inches (27") or more than thirty-six inches (36") in height excluding plantings.
  - c. The planters shall be either metal or have a metal frame.
11. The fee shall be a combination of the following four (4) fees: a) the annual square footage "right of way" fee for the portion of the café located on the sidewalk; b) the annual square footage "platform" fee for portion of the café located on the street and any portion that is located on the sidewalk; c) the daily fee for each parking space regardless of the amount of the parking space that the café utilizes; and d) bollard fee.
12. There is no guarantee that the City will continue to authorize cafes in the street. The café agreement will include a paragraph in substantial compliance with the following:

Café owner further acknowledges and agrees that no property right is conferred by this agreement for the use of portions of the public right-of-way, that the City is not empowered to grant permanent or perpetual use of its right-of-way for private purposes, that the City may order said locations and/or uses within the right-of-way to cease and desist if, for any reason, the City determines that said right-of-way is needed for a public use and should be cleared of any and all obstructions, and that the café owner shall not be entitled to any compensation should the City elect to do so.

The “30% limitation” limits the number of establishments that will be allowed to operate a café on the street, and cafes on the street will entail a substantial financial investment. To address these opposing concerns, a priority system and a lottery will be used. The City will provide information on the lottery and the priority system on its website.

Lottery. The logistics and deadlines for the lottery are as follows:

- February 1. In order to be eligible for the lottery, an application with a preliminary (not drawn by a professional) schematic diagram must be submitted by this date. Applications received after February 1 will be considered on a first come, first serve basis and will be denied if there is no available space.
- February 15. If there are competing applications, staff will notify the applicants by this date whether they have been selected to enter into easement agreements. Competing applications mean when there are applications for more than 30% of the parking spaces within a block face. The City will conduct a lottery to select applicants.
- March 15. The applicant must sign an easement agreement by this date, which is dependent upon staff approval of its schematic diagram (drawn by a professional) and payment of all fees (except the parking space fee that will not be known until the platform is installed). If an applicant does not meet the March 15 deadline, staff will notify the next applicant that it is eligible for a café on the street.
- April 15. The next applicant must sign an easement agreement by this date.

Note: If one of these dates falls on a weekend, the applicable deadline will be the following Monday.

Priority. If a café owner enters into an easement agreement with the City, said café owner will have priority over subsequent applicants for a café within the same block face for the following two calendar years assuming that the City continues to authorize cafes in the street (see Paragraph 12 above). The priority is to the individual business owner of said cafe and cannot be assigned or sold to another café owner.

#### Cafes within Planters

1. A sidewalk cafe may encompass or utilize an elevated planter if the proposed cafe meets the following criteria, as determined solely by the City:
  - a. It does not interfere with pedestrian movement.
  - b. It does not adversely affect drainage.
  - c. It does not adversely affect public or city utilities.
  - d. It does not adversely affect trees, shrubs or other plantings.

- e. It enhances the appearance of the surrounding area, and if in City Plaza, it enhances the use of City Plaza.
  - f. It does not interfere with the functionality of any other existing sidewalk cafe.
  - g. It is not otherwise contrary to public interest.
2. If utilizing two planters, the area between the planters shall be included in the sidewalk cafe area but need not be delineated as such unless tables and chairs are present.
  3. With the consent of the adjacent property owner and first floor tenants, if any, the café may extend beyond the building line extended if the distance between the planter and the building line extended is less than ten feet (**10'**). The café may extend beyond additional building lines extended with the consent of those property owners and first floor tenants, if any.
  4. The cafe owner shall pay all costs associated with the cafe including, but not limited to, the cost to move water mains and water service lines, to remove and plant vegetation, to move electrical outlets, and to cut and restore the limestone.
  5. The City may require the café owner to add plantings within the café area at the café owner's cost.
  6. There are a limited number of planters, and cafes in planters will entail a substantial financial investment. In order to address these two opposing concerns, a priority system and a lottery will be used. If a café owner enters into an easement agreement with the City, said café owner will have priority over subsequent applicants for a café in the planter for the following two café seasons assuming that the City continues to authorize cafes in planters. Café owners need to obtain the consent of adjacent property owner(s) and first floor tenant(s) only before entering the easement agreement for the first of the three-year, priority period. The priority is to the individual business owner of said cafe and cannot be assigned or sold to another café owner. Café owners with easement agreements for the 2012 café season will not be subject to the lottery until February 1, 2015. The lottery for planters will be conducted in the same manner as the lottery for cafes in the street.

#### Fees

1. Annual fee for sidewalk cafes located directly on the public right-of-way: \$5.00 per square foot.
2. Annual fee for sidewalk cafes located on a structure/platform (including cement platform) placed on the public right-of-way: \$10.00 per square foot.
3. Annual fee for the area of the sidewalk cafe utilizing an elevated planter on the public right-of-way: \$10.00 per square foot. The annual fee for the portion of a "planter" sidewalk cafe that is not located on the elevated planter: \$5.00 per square foot.
4. Annual fee for a sidewalk café located on the street: \$5.00 per square foot for the area located on the sidewalk plus \$10.00 square foot for the area located on the platform on the street plus daily fee for each parking space as set forth in the City Code (presently, \$12.00 per day) for every day the platform is on the street plus bollard fee.
5. Deposit for sidewalk cafes which place anchored fencing in the public right-of-way: \$200.00. This deposit shall be refunded if the right-of-way, and planter if applicable, is restored to its prior condition by the sidewalk café owner to the satisfaction of the City.
6. Deposit for sidewalk cafes which place a structure/platform (including cement platform) on the public right-of-way, regardless of whether anchored fencing is used: \$500.00. This

- deposit shall be refunded if the structure/platform is removed, and the right-of way is restored to its prior condition by the sidewalk café owner to the satisfaction of the City.
7. Deposit for sidewalk cafes which utilize an elevated planter in the public right-of-way: \$1,000.00. This deposit shall be refunded if the platform is removed, and the right-of-way is restored to its prior condition by the sidewalk café owner to the satisfaction of the City.
  8. If the initial easement agreement is for less than one season, the fees listed in Paragraphs 1-4 above shall be prorated on a quarterly basis.
  9. Electricity fee for using electrical outlet for lights for cafes in planters: \$45 per year.
  10. Bollard Fee: Actual cost of the bollards based on a five (5) year life cycle plus one (1) hour labor at the MWII pay grade to install, maintain, and remove the 4-foot buffer. If the platform is removed temporarily during the year, the labor fee is assessed again when the platform is reinstalled. A minimum of two (2) bollards will be required, and the City shall determine if additional bollards are needed.
  11. Recording fee for the easement agreement: Actual fee charged by County Recorder.

Section 10-3-3 of the City Code

- A. Sidewalk cafes are permitted in the public right of way only in the CB-2, CB-5 and CB-10 zones (the downtown and the commercial areas directly north and south of the downtown).
- B. No person shall operate a sidewalk café without executing an easement agreement.
- C. Each sidewalk café applicant shall file an application for an easement agreement with the Public Works Department, on forms provided by the City.
- D. The City Manager, or designee, shall either grant or deny the application within thirty (30) days of the application being filed. If the application is granted, the City Manager, or designee, is authorized to enter into a public right of way easement agreement. If the application is denied, the applicant may appeal to the City Council by filing a written appeal with the City Council, and the appeals process shall be the same as provided for mobile vendors in this chapter. The City retains the right to limit the number of sidewalk cafes.
- E. After execution of an easement agreement, the City Manager, or designee, shall retain the right to terminate the easement agreement but only after written notice of violation has been given and the time to cure the violation has expired. Grounds for termination of the easement agreement shall include, but not be limited to, repeated violations of the state and liquor control laws, violations of the easement agreement, and creating a safety hazard, health hazard and/or public nuisance under state or local law. Additionally, the City Manager, or designee, retains the right to terminate the easement agreement and direct removal of sidewalk cafe operations if there is a substantial and reasonable need for use of the public right of way for a valid public purpose. The cafe owner has the right to appeal a decision to terminate the agreement to the City Council. The appeals process shall be the same as provided for mobile vendors in this chapter.
- F. The easement agreement, at a minimum, shall require the café operator to provide a certificate of insurance satisfactory to the City, and shall agree to hold the City harmless against any and all liability arising from or relating to the operation of the sidewalk cafe or the location of the cafe on the public right of way including, but not limited to, all claims arising from occurrences or accidents within the sidewalk cafe area, including the walkway through a café.

- G. Sidewalk cafes shall operate only between the hours of seven o'clock (7:00) A.M. and twelve o'clock (12:00) midnight.
- H. Food and beverages must be available for service to patrons in a sidewalk cafe during all hours of operation. Sidewalk cafes shall not operate when the restaurant kitchen is closed.
- I. A sidewalk cafe serving alcoholic beverages shall have an employee monitoring the area at all times during the hours alcohol is consumed and shall dispense any alcoholic beverage under state and local law.
- J. Amplified sound equipment shall not be permitted.
- K. The operation of any sidewalk cafe shall be in conformity with all applicable federal, state, and local laws and regulations.
- M. All fees for the operation of a sidewalk café shall be set by resolution.
- N. The City Manager is authorized to establish administrative rules not inconsistent with any ordinance or policy adopted by the City Council. A copy of the policy and rules shall be on file with the City Clerk and available of the City website.