CENTER CITY
DEVELOPMENT & OPERATIONS

CITY OF SAN ANTONIO
POLICIES AND PROCEDURES
FOR SIDEWALK CAFÉS
IN THE DOWNTOWN AREA

I Background

This document provides the procedures, terms, and conditions regarding sidewalk cafe permits at street level in Downtown San Antonio. Sidewalk cafe permits shall not include the Market Square, La Villita, or River Walk Area. The Center City Development and Operations Department will manage and administer the permit process for sidewalk cafes and their use of public sidewalks.

II Definitions

Downtown Area: Start at the intersection of Salado and EL Paso Streets; north on Salado to its intersection with Frio Street; then northeast in a straight line to the intersection of IH-10 and Cadwallader; south on IH-10 to IH-35; northeast on IH-35 to a perpendicular point connecting with Cherry Street; south on Cherry Street to César Chávez; west on César Chávez to the San Antonio River; south along the San Antonio River to Arsenal Street; west on Arsenal to El Paso Street; .and then west on El Paso to Salado. **As defined in the Unified Development Code Article III Zoning - Sec. 35-310.11 "D" Downtown.**

Sidewalk Cafe: means any street level portion of public sidewalks in the downtown area in which tables, chairs, and associated exterior property are placed for the sole purpose of patrons consuming food and/or beverages (alcoholic or non-alcoholic beverages) served by a food establishment adjacent to the public sidewalk property (As defined in Municipal Code Ch. 32, IV). **Alcoholic beverages must be consumed on premises.** This sidewalk cafe permit shall not include the Market Square, La Villita, or River Walk Areas.

Clear Path of Travel: Measured from the outside edge of the sidewalk cafe fencing, fence post base or other sidewalk cafe related obstruction (that limits passage) to the back of the curb or nearest obstruction (i.e., tree pit, parking meter, bike rack, light pole, etc.). Measurements must be clearly identified in the site plan.

III Permit Review and Approval Process

A) Sidewalk Cafe Permit

Applicant must complete and sign the sidewalk cafe permit application. To submit a complete permit application, the applicant must provide the following information to Center City Development and Operations:

1) Photograph of area to be used as sidewalk cafe
2) One copy of a legible site plan including the following information:
   - North Arrow
   - Site plan with clearly identified measurements
   - Name of adjoining street(s)
   - Outdoor seating plan
   - Width of adjacent sidewalk(s)

■ Location of property lines and dimensions of sidewalk proposed for cafe use
■ Location of existing improvements (e.g., utility poles, fire hydrants, parking meters or pay stations, bike racks, bus shelters, traffic signs, signposts, tree pits) showing the distance of each to the sidewalk cafe.
■ Sidewalk width remaining for clear path of travel.
■ Location and dimensions of any proposed improvements associated with the sidewalk cafe. Such as: tables, seating, fencing and signs.
■ Location of building entrances

3) Copy of the Historic and Design Review Commission (HDRC) approval for any alterations, lighting, furnishings, signs, goods, or other property to be placed on the permitted sidewalk space

4) Letter from insurance agent agreeing to provide coverage (see below) if applicant is approved for permit

5) Copy of Texas Alcoholic Beverage Commission license/permit (if applicable)

6) Letter of Authorization form signed by the property owner of food service establishment location

- Annual Fee

< 250 square feet	$250 annual permit fee
250 - 500 square feet	$500 annual permit fee
> 500 square feet	$750 annual permit fee

- Sidewalk cafe permits are non-transferable and non-assignable. Renewal of existing sidewalk cafe permits will require a renewal application and annual fee. A new sidewalk cafe permit will be required when a business changes ownership.

- Applicant will be responsible for any fees associated with other applicable boards and/or commissions requirements that shall apply with the issuance of a sidewalk cafe permit such as obtaining approval of the Historic and Design Review Commission (HDRC), Texas Alcoholic Beverage Commission (TABC), preparation of site plans, photograph of area, insurance, building permits (if applicable), inspection permits (if applicable) and any other permits as may be required.

B) City staff will review application documents, conduct site visit, and contact applicant. If application is approved, City staff will issue invoice for permit fee.

C) Applicant will pay invoice and obtain original certificate of insurance and letter of endorsement from insurance provider. Applicant will deliver to City original certificate of insurance and letter of endorsement from insurance provider and proof of invoice payment.

D) City staff will review documents and, if documents complete, will issue permit.

IV Sidewalk Cafe Standards

The following standards will apply to all sidewalk cafes located on street level, public sidewalks in downtown San Antonio. Center City Development and Operations will have the discretion to require more strict standards depending on the specific site characteristics.

A) Clear Pedestrian Travel

1) A minimum of 6 feet clear path of travel is required on all public sidewalks with sidewalk cafes located within the downtown area.
2) Under certain conditions, Director may require clear path of travel wider than 6 feet.
3) If the sidewalk cafe causes change in the pedestrian travel, appropriate repairs in the immediate area may be required to accommodate the change or to assure compliance with ADA.
4) Cords, electric cords, strings and lights may not be strung over or be placed on the pedestrian path of travel.
5) Landscaping: planters must be contained within the footprint of the approved sidewalk cafe dimensions.
6) At least one accessible route shall connect accessible buildings, facilities, elements and spaces that are on the same site.

B) Accessibility Information

■ The minimum space requirement for a standard wheelchair to make a 180-Degree turn is a clear space of 60 inches diameter.
■ The minimum width for two wheelchairs to pass is 60 inches.
■ The minimum clear floor or ground space required accommodating a single, stationary wheelchair and occupant is 30 inches by 48 inches.

C) Maintenance of Property

Applicant shall, at all times, maintain the sidewalk adjacent to the sidewalk cafe free from obstructions of any kind and shall maintain a minimum clearance of six (6) feet on the sidewalk adjacent to the sidewalk cafe free and clear of any tables or other property, and applicant shall not use any of said sidewalk area in the exercise of privileges granted herein, except to pass to and from the sidewalk cafe; however, applicant use may at no time obstruct access to the six (6') foot clear path of travel.

■ Applicant shall, at all times, keep or cause to be kept the sidewalk cafe free of litter, trash, paper and other waste including during special events held by other organizations.

■Applicant shall at its sole expense, keep the sidewalk cafe premises in good order, repair conditions at all times and shall promptly repair all damages to the sidewalk and sidewalk cafe or replace any broken improvements or property within a reasonable period of time. All such repairs and replacements shall be subject to the approval of the City through the Director, Center City Development and Operations, or her designee, and any and all other necessary departments, boards, or commissions of the CITY OF SAN ANTONIO, including, but not limited to, the Historic and Design Review Commission. If Applicant does not promptly make such arrangements, City may, but is not required to, make such repairs and replacements and the costs paid or incurred by City for such repairs and replacements shall be payable in full within three (3) calendar days.Applicant will, at the termination of the permit, return the sidewalk cafe premises to City in as good condition as at the commencement of the term hereof, usual wear and tear, acts of God, or unavoidable accident only accepted.

■ Applicant agrees to hold City harmless for any theft, damages or destruction of signs, goods and/or other property of Applicant both during the term of this permit and as left on the sidewalk cafe premises after permit expiration date or applicant vacates the sidewalk cafe premises: If signs, goods and any other property placed by Applicant upon the sidewalk cafe premises are not removed within seven (7) calendar days after the sidewalk cafe permit expiration date, then the City may remove same without further notice or liability.

D) Rules and regulations and Prohibited Use of Sidewalk Cafe

- Sidewalk cafe permit holders shall observe and comply with all applicable, local, state and federal rules and regulations.
- No advertisements, signs, neon signs, decorations or displays shall be placed in, on, or about the sidewalk cafe premises without the prior written approval of the City through the Director, Center City Development and Operations, or her designee, and any and all other necessary departments, boards or commissions of the CITY OF SAN ANTONIO, including, but not limited to, the Historic and Design Review Commission. Applicant agrees to remove all property, including signs from the sidewalk cafe when applicant vacates the sidewalk cafe premises.
- Applicant shall be allowed to place only those chairs, tables, umbrellas, hostess stations, furnishings, lighting, and/or any other signs, goods, and other property as approved by City and all applicable boards and/or commissions of the City of San Antonio, including, but not limited to the Historic and Design Review Commission (HDRC).
- Applicant may not obstruct any entrance or exit to the business establishment. City has the right to require the removal of any signs, goods, and other property if not presentable, as determined by the Director, Center City Development and Operations, or designee.
- Encroachment on the public sidewalk beyond the authorized sidewalk cafe premises or into the public right-of-way is not permitted. A fine or citation may be issued, permit terminated or not renewed.
- Applicant may only use sidewalk cafe for dining and service of non – alcoholic beverages and **on premises consumption** of alcoholic beverages.
- No activity or method of operation shall be allowed in, on, or about the sidewalk cafe premises, which exposes patrons thereof to nudity or to partial nudity. For the purposes of this provision, the following definitions apply:
  - Nudity means total absence of clothing or covering for the human body.
  - Partial nudity means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
  - Any nudity as specified above will constitute a violation of this Article and result in an Event of Default.
- The operation of massage business, tanning salon, gambling casino, or gambling of any nature shall not be allowed in, on, or about the sidewalk cafe premises.
- Discrimination because of race, color, sex, age, disability, or national origin, directly or indirectly, in employment or in the use of or admission to the sidewalk cafe premises is prohibited.
- Applicant shall not, except as may otherwise be permitted by applicable laws and regulations, pay less than the minimum wage required by Federal and State statutes and CITY ordinances to persons employed in its operations hereunder.
- Applicant shall not place televisions, speakers or amplified music on or in sidewalk cafe. No outdoor music or entertainment is authorized in sidewalk cafes. Failure to comply with this section may, at **CITY'S** option, constitute default for the sidewalk cafe permit.
- Applicant shall not engage in, or allow its employees, agents, invitees, guests or any other person to engage in vending on the premises, other than the ordinary and customary restaurant service with wait staff bringing food and beverages to customers seated at tables within the premises.

E) Hours of Operation

- Sidewalk cafe may only operate during the food service establishment's business hours.

F) Sidewalk Cafe Inspections

■ Center City Development and Operations may conduct an initial inspection of the sidewalk cafe and verify that the applicant is in compliance with the sidewalk cafe permit conditions.
■ Center City Development and Operations may conduct inspections throughout permit period to determine if:

- Permit conditions are still met
- Original business is still in operation
- Site conditions require permit modifications

■ Fines/citations: Center City Development and Operations may issue a fine if any violation and non-compliance of City code and the sidewalk cafe rules and regulation are found. Fine for the first notice of violation is $100, second notice $150 and third notice may require sidewalk cafe to be removed.

V Insurance

Applicant agrees to hold City of San Antonio harmless for any theft, damages or destruction of signs, goods and/or other property of the applicant both during the term of the permit and as so left on the sidewalk cafe premises after applicant vacates the premises. If said signs, goods and any other property placed by applicant upon the sidewalk cafe are not removed by it within seven (7) calendar days after the applicant has vacated, then the City may remove same without further notice or liability, therefore. No later than 30 days before the scheduled event, CONTRACTOR must provide a completed Certificate(s) of Insurance to CITY's CCDO Department. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block;
- completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (CITY will not accept Memorandum of Insurance or Binders as proof of insurance);
- properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by CITY'S CCDO Department. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

If the City does not receive copies of insurance endorsement, then by executing this Agreement, CONTRACTOR certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for the Event.

The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

CONTRACTOR shall obtain and maintain in full force and effect for the duration of this Agreement, at CONTRACTOR'S sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the CONTRACTOR claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

TYPE	AMOUNTS
1. Worker's Compensation	Statutory
2. Employer's Liability	$1,000,000 / $1,000,000 / $1,000,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal/ Advertising Injury e. Contractual Liability f. Environmental Impairment/Impact – sufficiently broad to cover disposal liability	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence.

- CONTRACTOR must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of CONTRACTOR and provide a certificate of insurance and endorsement that names CONTRACTOR and CITY as additional insureds. Respondent shall provide CITY with subcontractor certificates and endorsements before the subcontractor starts work.

- If a loss results in litigation, then the CITY is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. CONTRACTOR must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio
Attn: Center City Development and Operations
P.0. Box 839966
San Antonio, Texas 78283-3966

CONTRACTOR's insurance policies must contain or be endorsed to contain the following provisions:

- Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with CITY.

- The endorsement requirement is not applicable for workers' compensation and professional liability policies.

- Endorsement that the "other insurance" clause shall not apply to CITY where CITY is an additional insured shown on the policy. CITY's insurance is not applicable in the event of a claim.

- Contractor shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and

- Provide 30 days advance written notice directly to CITY of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

- Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, CONTRACTOR shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONTRACTOR'S performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

- In addition to any other remedies CITY may have upon CONTRACTOR'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, CITY may order CONTRACTOR to stop work and/or withhold any payment(s) which become due to CONTRACTOR under this Agreement until CONTRACTOR demonstrates compliance with requirements.

- Nothing contained in this Agreement shall be construed as limiting the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR'S or its subcontractors' performance of the work covered under this Agreement.

- CONTRACTOR'S insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.

- The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.

- CONTRACTOR and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

VI INDEMNIFICATION

APPLICANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or . indirectly arising out of, resulting from or related to APPLICANT'S activities under this Agreement, including any acts or omissions of APPLICANT, any agent, officer, director, representative, employee, consultant or subcontractor of APPLICANT, and their respective officers, agents, employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage.

IN THE EVENT APPLICANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. APPLICANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or APPLICANT known to APPLICANT related to or arising out of Applicant's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at APPLICANT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving APPLICANT of any of its obligations under this paragraph.

_____ _____

Applicant Signature: I agree to comply with the rules, policies & procedures described above.

Date

_____

Printed Name