

# Sidewalk Café Application



**CITY OF OVIEDO**  
**400 Alexandria Boulevard**  
**Oviedo, Florida 32765**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

Phone: (407) 971-5775  
 Fax: (407) 971-5819  
[www.cityofoviedo.net](http://www.cityofoviedo.net)

Reference Project No. \_\_\_\_\_

## Submittal

### Checklist

- Authority/ Ownership Affidavit.
- Business Tax Receipt
- Proof of Insurance for the sidewalk café area
- Sidewalk Café Site Plan
- Photographs, drawings, renderings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects related to the sidewalk café.
- Site Plans
- A copy of Florida Alcoholic Beverage License and associated approved site plan identifying the extension of this permit to the sidewalk café
- Completed Application (each line in each table must be completed)
- Application Fee \$198.00
- Annual Renewal Fee \$198.00 due by Oct. 1st Valid from Oct. 1st – Sep. 30th
- Tech Fee \$25.00

### Permittee

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

### Principal Use

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

### Property Owner

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Attach a verified statement including the names of each individual having a legal/equitable ownership interest in the subject property. For publicly held corporations, names and addresses of the corporation, principal executive officers and any majority stockholders will be sufficient.

# Sidewalk Café Application

## Project Information

**Sidewalk Café:** \_\_\_\_\_

**Principal Use Address and/or Parcel Identification Number(s):** \_\_\_\_\_

*Attach an official, sealed boundary survey with a complete legal description of the subject property to this application.*

**Size of the Area (in square feet)** \_\_\_\_\_

The following must be presented **in the site plans**. **Each line must be completed.** Please check one of the boxes below. If the item is not provided, provide justification on why it is not provided.

Sidewalk Café Site Plan			
Required	Provided	Not Provided	Justification for not providing
Address of the			
Name and Address (if available for the development)			
Description of the Use			
General Location			
Name(s) of Owner(s)/Developer(s), Address, Telephone, E-mail, and Fax			
Name(s) of Applicant(s), Address, Telephone, E-mail, and Fax			
Names of all Individuals having legal interest/ownership			
Name(s) of Utility Providers, Address, Telephone, E-mail, and Fax			
Vicinity Map to scale			
North arrow			
Preparation/Revision Dates— Up to Date			
Blank space (3x5 inches) on the bottom right corner for City approval stamp.			
Parcel ID Number(s)			

## Sidewalk Café Application

### Site Plan

Required	Provided	Not Provided	Justification for not providing
Parking Spaces adjacent to the Sidewalk Café area			
Name and Address (if available for the development)			
Description of the Use			
General Location			
Furniture Location			
Location and Width of Pedestrian Zone			
Location of Equipment necessary for dispensing of any items			
Sidewalk café elements shall not be placed within five (5) feet of bus stops, taxi stands, fire hydrants, pedestrian crosswalks, handicap corner cuts, driveways, or non-pedestrian alleyways. Provide the distance away from bus stops, taxi stands, fire hydrants, pedestrian crosswalks, handicap corner cuts, driveways, or non-pedestrian alleyways.			
The sidewalk café elements shall not be placed within two (2) feet of the curb so that it does not obstruct vehicle passengers from exiting their cars. Provide distance from curb			
Sidewalk cafés shall not impinge or encroach upon any required clear distances for maneuvering around entrances or exits . Provide distance from entrances and exits.			
Location of Lighting			
Location of Music and Entertainment			
Location of Signage			
<b>Impact Fees will be required prior to the issuance of the Sidewalk Café Permit.</b>			
<b>Annual Renewal of the Sidewalk Café Permit is required.</b>			

### Certification

I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and complete, and that I am

(  ) the Property Owner of Record for the subject property described herein.

(  ) the Authorized Agent of the Property Owner of Record for the subject property described herein (notarized letter of authorization attached).

Signature \_\_\_\_\_

Date \_\_\_\_\_

# **Sidewalk Café Application**

## **Application Instructions**

The instructions are intended to provide you with the information necessary for you to complete an application for a Sidewalk Café Application. The information requested to be part of your application represents the minimum requirements for submittal.

A project Manager will be assigned to your application to work with you throughout the application process. The project Manager will provide you information on all public meetings where your application will be considered. Our objective is to make the process clear and as understandable as possible for you. Sufficiency Review is ensuring the application is filled properly and all required documentation is provided. Compliance Review is ensuring that the documentation provided is in compliance with the Land Development Code, Engineering Standards Manual and other code requirements.

### **Sufficiency Review**

The Applicant is required to complete all parts of this application properly and completely and pay all applicable fees in order for the Staff to begin processing the application. The submittal must include plans and required documents. If the Staff determines within two (2) business days that the application is not sufficient, you will be notified by email and the application will not be reviewed for compliance. Once the application is sufficient, staff will notify you by email and the application will move into Compliance Review.

### **Compliance Review**

City Staff will review the completed application for compliance with the Land Development Code within the following review days:

1st Compliance Review-	14 calendar days
2nd Compliance Review-	10 calendar days
3rd Compliance Review-	10 calendar days (The Applicant shall pay 50% of application fee)

# **Sidewalk Café Application**

## **Application Instructions**

### **(A) Application for sidewalk café permits.**

(1). It is prohibited and unlawful for any person to operate a sidewalk café on any sidewalk or public right-of-way within the City without obtaining a sidewalk café permit as required by this Ordinance. Application for a sidewalk café permit shall include, but not be limited to, the following information, and shall be made on a form approved by the City Manager, or designee, with all applicable information being provided:

- (a). The name, address and telephone number of the Permittee.
- (b). The name and address of the principal use.
- (c). The name and address, and telephone number of the building/property owner.
- (d). A copy of the current business tax receipt relative to the operation of the principal use to which the proposed sidewalk café will be accessory to. The sidewalk café shall be prohibited from operating until payment of all local business tax sums due to the City and County.
- (e). The sidewalk café elements to be utilized for the sidewalk café
- (f). Proof of insurance required by this Ordinance.
- (g). A sidewalk café site map (to scale).
- (h). Equipment necessary for the dispensing of any items.
- (i). Photographs, drawings, renderings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects related to the sidewalk café.
- (j). An affidavit from the building/property owner using a form approved by the City Attorney, consenting to the operation of the sidewalk café at that location and attesting that all information provided in the application is true and correct.
- (k). A copy of each Florida alcoholic beverage license, if applicable, and associated approved site plan identifying the extension of this permit to the permit area where the sidewalk café will operate.

(2). The application shall be accompanied by an application fee set forth in the fee schedule established by Resolution adopted by the City Council, which Resolution may also provide for other fees determined to be necessary to implement the provisions of this Ordinance. The City Council may suspend or prorate the permit fee in cases of public construction or emergency situations.

(3). A permit may be issued for any portion of a year. Any person operating a sidewalk café for a period beginning after May 1 of any year may obtain a permit for the remaining portion of the fiscal year upon payment of one-half of the permit fee required by this Ordinance.

# **Sidewalk Cafe Application**

## **Application Instructions**

(4). The City shall provide the Florida Division of Hotels and Restaurants and/or Division of Alcoholic Beverages and Tobacco with a copy of all approved applications and permits if required or requested.

**(B).** Procedures for review of applications; permit issuance; and annual renewal.

(1). The initial sidewalk café permit applications shall be subject to review and approval by the City Council who may approve, approve with conditions or deny the application for a sidewalk café permit. The City Council may delegate approval authority of sidewalk café permit applications to the City Manager by Resolution at its sole discretion.

(a). In reviewing sidewalk café elements, the City Council shall consider their character and appropriateness of design including, but not limited to, scale, texture, materials, color and the relation of the sidewalk café elements to the adjacent establishments, to features of structures in the immediate surroundings, as well as to the streetscape and adjacent neighborhood(s), if applicable.

(b). Prior to the issuance of a sidewalk café permit pursuant to this Ordinance, the City Council must determine the following by clear and convincing evidence:

(i). All outstanding fines, fees, taxes or other charges, including but not limited to impact fees, due and owed to the City by the permittee or the building/property owner have been paid in full to the City.

(ii). The permittee has supplied all of the information required on or by the application, and any additional information requested by the City Council.

(iii). All of the requirements of this Ordinance have been met.

(2). The issuance of a sidewalk café permit pursuant to this Ordinance shall not be construed to be an endorsement of any activity authorized or product sold, and the City disclaims any liability related to such licensed or authorized operations. The issuance of a sidewalk café permit pursuant to this Ordinance shall, likewise, not constitute endorsement of the merits of the organization or person conducting the activity or the operation so permitted or authorized.

(3). The City Council may impose conditions upon the issuance of a sidewalk café permit in order to protect the use of adjacent right-of-way for its intended purpose, to prevent congestion of vehicular or pedestrian traffic flow and to otherwise carry out the purpose and intent of this Ordinance.

(4). A sidewalk café permit may not be transferred to another address or to another permittee.

# Sidewalk Cafe Application

## Application Instructions

(5). Annual renewal of the sidewalk café permit shall be subject to the review and approval of the City Manager, or designee, based on the sidewalk café regulations in place at that time, provided that the renewal does not require an amendment to the original sidewalk café permit. If a renewal requires an amendment to the original sidewalk café permit, the renewal must be reviewed and approved by the City Council. It is prohibited and unlawful to operate a sidewalk café without a current permit. The renewal shall be accomplished by payment of a renewal fee set forth in the fee schedule established by Resolution adopted by the City Council, which resolution may also provide for other fees determined to be necessary to implement the provisions of this Ordinance. The renewal fee shall be paid before October 1 and shall cover the time period from October 1 through September 30 of the following calendar year. Late payments for permit renewal fees shall accrue at the rate of ten (10) percent per annum for the first thirty (30) days. If the permit renewal fee is not paid within sixty (60) days after it is due, the permit shall terminate automatically without notice. Any continued operating of the sidewalk café after termination shall be construed as operating a sidewalk café without a permit and is prohibited and unlawful, and the violation may be addressed by the City in accordance with the provisions of this Ordinance. The City Council may suspend or prorate the annual renewal fee in cases of public construction with thirty (30) days notice or emergency situations with such reasonable notice to the permittee, as determined by the City, as may be practicable under the particular circumstances.

(6). Seats in the permit area and the square footage of the permit area shall be subject to the payment of applicable impact fees.

(7). In addition to the other actions authorized herein, sidewalk café permits may be temporarily suspended by order of the City Manager for community or special events, utility, sidewalk or road repairs, or emergency situations. The length of the suspension shall be for a duration determined necessary by the City Manager. Removal of all street furniture and related obstructions shall be the responsibility of the permittee all as deemed necessary by the City. The City Manager, or designee, shall notify the Permittee at least seven (7) days prior to the issuance of the suspension order. It is prohibited and unlawful to continue operation as a sidewalk café during such times of suspension.

### **(C). Specific standards for sidewalk cafés.**

(1). The operation of a sidewalk café shall be restricted to the permit area to which a sidewalk café permit is issued.

(2). Only the sidewalk café elements specifically shown on the approved sidewalk café site map for the permit area and not otherwise prohibited are allowed in the permit area. The sidewalk café site map shall be posted and displayed within the principal use at an easily accessible location along with the sidewalk café permit.

(3). All services provided to patrons of a sidewalk café and all patron activity (i.e., sitting, dining, waiting, etc.) shall occur within the designated permit area, and shall not impinge or encroach upon the required clear pedestrian zone at any time. Supervision of the permit area to ensure that the conduct of patrons and operations are in compliance with this Ordinance is the responsibility of the permittee. Subject to the requirements of this Ordinance, the permittee shall, as part of the sidewalk café permit, be entitled to remove or exclude persons from the permit area during hours of business operation consistent with all applicable laws. No cover charge or minimum purchase may be required for admittance to a sidewalk café permit area.

# **Sidewalk Café Application**

## **Application Instructions**

(4). All sidewalk café employees shall be subject to and comply with all applicable requirements and standards for a retail food establishment.

(5). All patrons at a sidewalk café shall be fully attired at all times meaning that persons may not wear clothes that are topless and/or bottomless.

(6). All sidewalk cafés shall allow for unimpeded pedestrian access at all times. The sidewalk café shall maintain a minimum four (4) feet of unobstructed pedestrian zone to allow for pedestrian passage. Permittees shall respect the rights of pedestrians traveling past their sidewalk café at all times during the operation of the sidewalk café.

(7). The permittee shall be responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the operation of the sidewalk café.

(8). All areas within and surrounding the sidewalk café shall be maintained in a clean, neat, sanitary and safe condition and shall be policed routinely by the permittee to ensure removal of all wrappings, litter, debris and food. All trash and litter shall be removed daily by the permittee. Public sidewalk trash containers shall not be used as a means of disposing of table waste generated by restaurant customers. The permittee shall accomplish a daily sanitary cleaning of the sidewalk café. Sidewalks within and adjacent to the sidewalk café shall be swept daily and washed down as needed. The permittee shall not wash garbage cans or any other container, or other personal property of any nature on the sidewalks. All cleaning shall be performed by the permittee in accordance with applicable Federal and State regulations. The permittee shall not use bleach or harsh chemicals on the sidewalk or any other solvent that makes a noxious smell or an odor that can be deemed to constitute a nuisance.

(9). The hours when service is permitted at the sidewalk café shall be during the business hours of the principal use.

(10). Cooking and food preparation within the permit area are prohibited and unlawful.

(11). Sidewalk cafés shall abide by the City's noise codes as well as all other applicable codes and ordinances.

(12). It is the responsibility of the permittee to adequately secure or remove all outdoor components during severe storms or periods of high winds. All sidewalk café elements shall be secured inside by the permittee when a storm warning is issued. Upon the issuance of a storm or high wind warning by Seminole County or another agency with jurisdiction, the permittee shall immediately remove all tables, chairs and other sidewalk café elements. The issuance of such a storm or high wind warning shall constitute an emergency situation. In such circumstances, governmental personnel may remove or relocate all sidewalk café elements. The City and its officers and employees shall not be responsible for sidewalk café elements and fixtures relocated during emergencies.

# **Sidewalk Café Application**

## **Application Instructions**

(13). If the permit area includes private property, the portion of the sidewalk café on the private property shall also adhere to the requirements outlined in this Ordinance.

(14). Each sidewalk café shall be subject to the provisions of Chapter 18, Article IX, Division I of the City Code of Ordinances pertaining to dog friendly public food service establishments.

(15). The following specific design standards shall apply to each sidewalk café:

(a). Space and clearances.

- (i). The area designated for the sidewalk café shall be considered an extension of the principal use. Therefore, the location of the sidewalk café will be restricted to the length of the sidewalk or public right-of-way immediately adjacent to (measured parallel to front lot line) the principal use and may not extend beyond the frontage of the principal use.
- (ii). A sidewalk café shall maintain a clear pedestrian zone of four (4) feet minimum at all times. In areas of higher pedestrian traffic or activity, or in conditions that suggest the need for additional clearance, a wider clear pedestrian zone may be required by the City.
- (iii). Sidewalk café elements shall not be placed within five (5) feet of bus stops, taxi stands, fire hydrants, pedestrian crosswalks, handicap corner cuts, driveways, or non-pedestrian alleyways. This requirement may be modified (more or less) as part of the issuance of a sidewalk café permit, when it is found and determined that circumstances exist that justify the modification consistent with sound and generally accepted land use planning practices and principles.
- (iv). The sidewalk café elements shall not be placed within two (2) feet of the curb so that it does not obstruct vehicle passengers from exiting their cars.
- (v). Sidewalk café elements may not be attached, chained or in any manner affixed to or interfere with any utilities or other facilities such as telephone poles, fire hydrants, trash receptacles, trees, posts, curbs, signs, parking meters, mailboxes, or benches located on the sidewalk or public right-of-way.
- (vi). Sidewalk cafés shall not impinge or encroach upon any required clear distances for maneuvering around entrances or exits. The dining area of a sidewalk café shall be accessible to disabled patrons and employees, and buildings adjacent to a dining area shall have adequate ingress and egress as required by applicable codes and ordinances. The provisions of the Americans with Disabilities Act shall be adhered to at all times and in all instances.
- (vii). The permittee shall be responsible for its patrons' behavior and not permit their patrons to block the pedestrian zone. This requirement includes, but is not limited to, waiting for seating arrangements, meeting with patrons while seated, stroller parking, etc.

# Sidewalk Café Application

## Application Instructions

(b). Sidewalk Café Elements.

- (i). All sidewalk café elements shall be of commercial grade.
- (ii). Permanent structures in sidewalk cafés are prohibited and unlawful. It is prohibited and unlawful to permanently or temporarily anchor anything to any portion of the right-of-way.
- (iii). No object shall be permitted around the perimeter of permit area which will have the effect of permanently forming a physical or visual barrier unless approved as a removable barrier as part the issuance of a sidewalk café permit. Non-permanent stanchions with decorative ropes or chains may be permitted and conditions upon the use of such stanchions and related materials may be set forth in the sidewalk café permit.
- (iv). If used as removable barriers for sidewalk cafés, planter boxes, vases, and urns shall be potted with live plants and flowers at all times, and plant material shall not exceed forty-eight (48) inches in height measured from the pavement; provided, however, faux plants and like materials may be approved as part of the issuance of a sidewalk café permit.
- (v). Sidewalk café elements shall only be placed in the permit area as depicted on the approved sidewalk café site map. Appropriate size and configuration of sidewalk café elements will be identified on the face of the sidewalk café permit and may be affected by specific conditions of the location.

(c). Umbrellas. Individual table umbrellas may be utilized to provide shade and shelter for sidewalk café patrons if approved as a part of the sidewalk café permitting process. The use of removable umbrellas may be permitted provided they do not encroach into the pedestrian zone. No portion of the umbrella shall be less than seven (7) feet above the sidewalk. Umbrella structures shall be designed to be secure during windy conditions and shall be weather resistant. Umbrellas shall be made of canvas or other non-vinyl materials, and shall be cleaned and maintained regularly. Solid-colored umbrellas are generally approved while fluorescent colors are prohibited and unlawful. An umbrella may have a logo relating to the principal use or a product sold at the sidewalk café, but may not have any other content. Umbrellas shall match in all visual qualities, including dimension, color, texture, and fabric. Umbrellas shall be designed for outdoor commercial use and shall be freestanding or table-anchored, and may not be fastened to the ground. The purpose of this provision is not to exclude or prohibit artistic works consistent with the theme of the permit area or principal use.

(d). Lighting. Lighting for sidewalk cafés may be utilized if approved as a part of the sidewalk café permitting process. Any such lighting shall complement the existing building and sidewalk café design and shall not cause a glare to passing pedestrians or vehicles. It is prohibited to have outdoor illumination during hours when the sidewalk café is closed for business.

(e). Outdoor heaters and cooling devices. Outdoor heaters and cooling devices may be utilized if approved as a part of the sidewalk café permitting process. All heaters and cooling devices shall be UL (Underwriters Laboratories, Inc.) approved or FM (Factory Mutual) approved and shall be subject to inspection by the City's Fire Marshall and Building Official at all times.

(g). Music And Entertainment. Amplified music, live entertainment and/or speakers may be allowed in a sidewalk café upon approval as part of the sidewalk café permitting process. Conditions such as hours and days of

# **Sidewalk Café Application**

## **Application Instructions**

(f). Vending Activities. Vending machines for the sale of goods are prohibited and unlawful in a sidewalk café.

(g). Music And Entertainment. Amplified music, live entertainment and/or speakers may be allowed in a sidewalk café upon approval as part of the sidewalk café permitting process. Conditions such as hours and days of operation and audio levels can be required and shall be listed on the sidewalk café permit.

(h). Alcoholic beverages.

(i). Alcoholic beverages may be served and consumed at a sidewalk café, upon approval as part of the sidewalk café permitting process and in accordance with all requirements of controlling State law, provided that the alcoholic beverage is purchased from the sidewalk café.

(ii). A sidewalk café may serve alcohol only to patrons who are in the permit area except when a special event is permitted by the City, but then only if compliant with controlling State law.

(iii). The storage or mixture of alcoholic beverages in the sidewalk café area is prohibited and unlawful. Bars, or like operations, are prohibited in sidewalks cafés.

(iv). The sale and consumption of alcoholic beverages in a sidewalk café shall be conditioned upon the permittee obtaining the necessary Florida alcoholic beverage license and meeting all associated and resulting alcoholic beverage requirements. The site plan approved by the State for an issued alcoholic beverage license to allow service in a sidewalk café shall conform to the sidewalk café site map approved as part of the sidewalk café permit.

(i). Signage.

(i). The regulation of the content of signage within governmentally owned areas of real property with specifically targeted effects of that content, to generate business and recreational activities within the City, is deemed to constitute permissible governmental speech within the confines of governmentally owned real property which is being used in a manner which benefits the general public in an array of manners.

(ii). It is prohibited and unlawful to attach a sign to any sidewalk café element, except as provided for in (o) (3) Umbrellas.

(iii). Each sidewalk café may be permitted one (1) menu board that shall be attached to the front façade of the principal use, no larger than six (6) square feet, may be internally illuminated.

(iv). Each sidewalk café may be permitted one (1) sandwich board sign that shall have a maximum sign area of six (6) square feet, may be internally illuminated, and the top of the sandwich board sign shall not exceed four (4) feet from grade absent the issuance of a deviation.

(v). Each sidewalk café may be permitted one (1) specials board that shall be attached to the front façade of the principal use, no larger than six (6) square feet, may be internally illuminated.

# **Sidewalk Café Application**

## **Application Instructions**

**(D). Insurance required; matters relating to liability.**

(1). Each permittee shall purchase and maintain commercial general liability, public liability, food products liability (food serving establishments only), workers' compensation, employee liability, and property damage insurance from all claims and damages to property or bodily injury, including death, which may arise from operation of the sidewalk café or in connection therewith.

(2). The permittee shall provide and have approved by the City a copy of the declarations of insurance as evidence that the requirements set forth in this Ordinance have been met prior to commencing operations.

(3). The City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. The permittee shall hold the City harmless shall indemnify the City from any claims for damages to property or injury to persons that may be occasioned by any activity carried on under the terms of the permit and from any and all claims, liability, lawsuits, damages and causes of action which may arise out of the permit or the permittee's activity on the permitted premises. Acceptance of the sidewalk café permit shall act as acceptance of this condition and requirement. The permittee shall, prior to the commencement of operations, execute such documents as may be required by the City Attorney.

(4). Each permittee shall maintain the insurance coverage required under this Ordinance during the permit period. The permittee shall provide a minimum thirty (30) days in advance, written notice prior to any cancellation, nonrenewal, or material change in the coverage provided. Failure of the permittee to maintain the insurance required by this Ordinance shall result in the revocation of the sidewalk café permit.

**(E). Revocation or suspension; violations; emergencies; appeals.**

(1). The approval of a sidewalk café permit is conditional at all times. A sidewalk café permit may be revoked or suspended if it is found that:

(a). Any necessary business or health permit has been suspended, revoked or canceled.

(b) The permittee does not have insurance which is correct and effective in the minimum amounts as prescribed in this Ordinance.

(c). The permittee exceeds the approved number of seats by placing additional tables, chairs, etc. in or beyond the approved permit area.

(d). Any condition of this Ordinance or the sidewalk café permit has been violated.

(e). The sidewalk café is being operated in a manner which constitutes a nuisance.

(f). The operation of the sidewalk café unduly impedes or restricts the movement of pedestrians.

(g). The operation of the sidewalk café constitutes a liability in any way.

(h). The operation of the sidewalk café justifies such action under controlling law.

# Sidewalk Café Application

## Application Instructions

(i). The permittee has failed to correct violations of this Ordinance or conditions of this sidewalk café permit within the timeframe specified in a City notice of violation delivered in writing to the permittee.

(j). The permittee has damaged the City sidewalk and has failed to repair the damage in a timely manner.

(2). The revocation or suspension of a sidewalk café permit shall be in writing, setting forth specific reasons and providing an effective date. If the permittee fails to remove any sidewalk café elements and other objects related to a sidewalk café in accordance with, and as directed by, the City's final notice of revocation or suspension, the City shall have the right, but not the obligation, to remove such objects. If the City removes, pursuant to this Ordinance, any tables, chairs or other objects related to a sidewalk café, the permittee shall be responsible for the reasonable expenses incurred by the City for the removal and storage of such objects which may be imposed as a special assessment and special assessment lien in accordance with the provisions of this Ordinance.

(3). In addition to the enforcement provisions of this Ordinance, violations of this Ordinance are punishable under the provisions of Section 1-13 and Chapter 2, Article IV of the City Code of Ordinances and may be enforced and are subject to the applicable code compliance procedures of the City and the provisions of controlling law. Notwithstanding the generality of the foregoing, life safety violations are defined as those conditions which exist involving serious threat to the public health, safety or welfare including, but not limited to, violations of the Florida accessibility code for building construction require no notice prior to requirement remedial action. Nothing in this Ordinance shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or situation of noncompliance. Such other lawful actions may include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. All remedies and penalties provided for in this Ordinance shall be cumulative and independently available.

(4). Alleged violations of this Ordinance may be presented to the City's Special Magistrate by a City code enforcement officer. The special magistrate shall hear such cases and determine if the permittee against whom the violation has been asserted has violated a provision of this Ordinance. The code enforcement officer shall serve the permittee a written notice of the alleged violation which affords reasonable notice of facts or conduct which warrant the intended action. The permittee shall be given adequate opportunity to be heard at an administrative hearing before the City's Special Magistrate. If a permittee is found in violation of this Ordinance by the Special Magistrate on three (3) occasions in a single permit year as identified as the beginning date of the permit issuance, the sidewalk café permit shall be suspended for a period of time as determined by the Special Magistrate. In the case of an emergency, the City Manager, or designee, shall have the power to suspend or revoke a permit; provided, however, that the permittee shall immediately be advised of the City's action and be afforded a prompt post-suspension or revocation hearing before the Special Magistrate.

(5). Appeals from the decisions of the City's Special Magistrate shall be to a court of competent jurisdiction.

(6). Any damage to the public sidewalk or public fixtures on the sidewalk shall be repaired by the permittee or property owner to the satisfaction of the City within the timeframe specified within a City notice of violation. Failure to repair damaged sidewalk or any damaged public fixture on the sidewalk may result in the City making necessary repairs and assessing all costs against the property owner as a special assessment under this Code and such costs may be imposed as a special assessment lien against the property in accordance with this Code. Additionally, damage of the public sidewalk or public fixtures shall be grounds for revocation or suspension of the sidewalk café permit as provided in this Ordinance.

(I). Complaints.

Complaints may be made in writing to a Code Enforcement Officer, which shall accept, document, investigate and respond to all complaints and shall, when deemed appropriate, report a complaint to the Florida Division of Hotels and Restaurants and/or Division of Alcoholic Beverages and Tobacco whenever appropriate.