



Community Planning & Building Department  
601 Caroline Street  
Fredericksburg, VA 22404  
Telephone: 540-372-1179  
Email: planning@fredericksburgva.gov

## SIDEWALK CAFÉ LICENSE APPLICATION

### The following attachment must accompany this application:

1. Two copies of a plat showing the proposed location and layout of the café on the sidewalk in relation to existing obstructions (i.e. trees wells, trash cans, etc.), including materials to be used for the required 30-inch-high enclosure.
2. Certificate of Insurance for the Business, indicating that the business operator has minimum general liability insurance coverage for personal injury and property damage in the amount of \$1 million per occurrence and \$1 million aggregate, with the City of Fredericksburg named as additional insured (1 copy).

**NOTE:** A Sidewalk Café License Renewal application and a current copy of your Certificate of Liability Insurance showing the City of Fredericksburg as additional insurer is required each year to renew your license.

By signature, Sidewalk Café owner hereby agrees to the maximum extent allowed by law, to indemnify, release, and hold harmless the City of Fredericksburg, Virginia, its agents, and employees from any and all losses, damages, expenses (including attorney’s fees) and claims arising out of the Licensee’s design, construction, operation and maintenance of the above mentioned sidewalk café located on City property. As well, the Sidewalk Café owner certifies that he/she has received approval from all relevant authorities to operate, including the Health Department, the Alcohol Beverage Control Board of the Commonwealth of Virginia and the Architectural Review Board. All sidewalk cafes shall cease seating patrons outdoors at 12:00 midnight (this does not include indoor seating). **Section 22-7(E)(2)(d)** now requires all café operators to provide contact information for one or more persons who shall be responsible to address any problems related to the café that may require immediate attention.

### Applicant Information (please print):

Name of Applicant: \_\_\_\_\_ Telephone: \_\_\_\_\_

Name of Restaurant: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Address of Restaurant: \_\_\_\_\_

Point of Contact (other than applicant): \_\_\_\_\_

Telephone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### Operations Plan:

Dates, days, and hours of operation (including Saturdays, Sundays and Holidays): \_\_\_\_\_

Total square footage to be occupied by Sidewalk Café: \_\_\_\_\_ Seating Capacity: \_\_\_\_\_

Amount of Pedestrian Clear Space from **all** objects (must be at least five (5) feet): \_\_\_\_\_

Type of Furnishings to be used: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Property Owner: \_\_\_\_\_

*For Completion by Planning Services Division and City Manager*

Approved

Denied

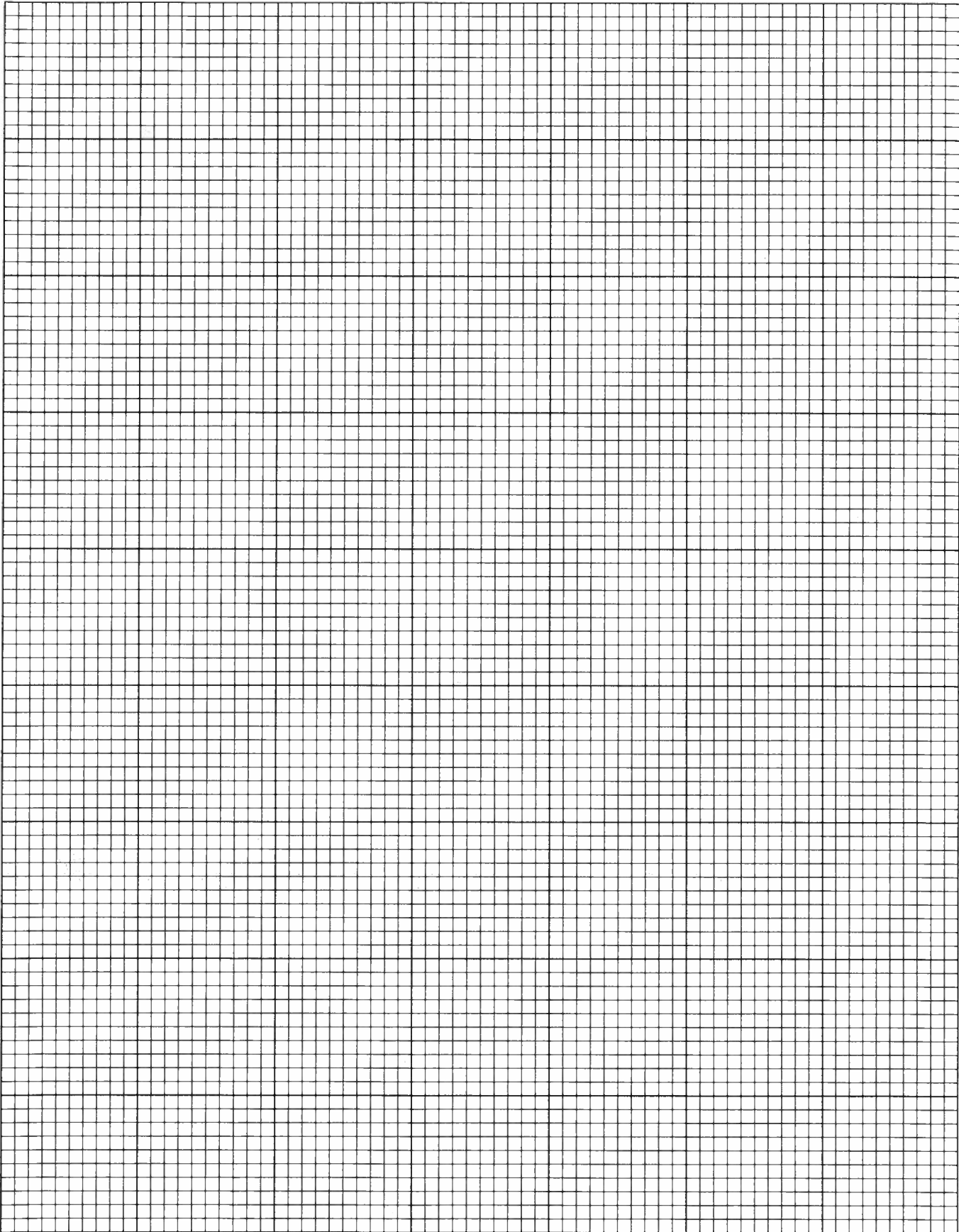
Zoning Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Comments: \_\_\_\_\_

CL# \_\_\_\_\_

**PROPOSED SIDEWALK CAFÉ**

(SHOW BUILDING, ENCLOSURE IF PROPOSED, CAFÉ FURNITURE, STREET TREES, STREET LIGHTS, TRASH CANS, OTHER OBSTRUCTIONS AND PEDESTRIAN CLEAR PATH)



**SCALE = 1 Inch = \_\_\_\_\_ FEET**

## **Chapter 8-1. SIDEWALK CAFÉ AND ENCROACHMENT REGULATIONS**

### **A. Purpose.**

The following sidewalk café and sidewalk seating encroachment regulations are intended to encourage sidewalk cafés adjoining and accessory to restaurants and appropriate use of public right-of-way by offices and shops. The Zoning Administrator shall be responsible for implementing the requirements and specifications of this ordinance, processing applications and licenses, and enforcement.

The regulations are intended to protect the public health, safety, and welfare and to achieve the following goals:

- (1) To expand seasonal restaurant and other business and the overall economic viability of the City of Fredericksburg;
- (2) To enhance the character of the City and make Fredericksburg's commercial areas more vibrant places to live, work, eat, shop and visit;
- (3) To ensure adequate space for pedestrian traffic adjoining sidewalk cafes and encroachments; and
- (4) To establish effective administrative and enforcement procedures for the regulation of such cafés and encroachments.

### **B. Definitions.**

- (1) The term "sidewalk café" or "café" shall mean an outdoor or semi-enclosed dining area directly adjoining and part of a restaurant within the City and located on a public sidewalk, alley, or right-of-way where customers of the restaurant sit and dine.
- (2) The term "sidewalk seating encroachment" or "encroachment" shall mean an outdoor area directly adjoining a business or office within the City and located on a public sidewalk, alley, or right-of-way primarily used for seating by business' customers.
- (3) Sidewalk cafés or encroachments may be proposed anywhere in the City.

### **C. General Requirements.**

- (1) Every café or encroachment shall be temporary in nature and designed so that the entire structure and any improvements, including chairs, fences, railings, etc., can be removed during periods of non-use.
- (2) No portion of a sidewalk café or seating encroachment may be used for any purpose other than dining, circulation, or seating for customers.
- (3) Cafés and encroachments shall comply with all applicable federal, state and local laws and regulations, including the Americans with Disabilities Act.
- (4) Each café or encroachment shall physically adjoin its restaurant, business, or office. No portion of a café or encroachment shall project beyond its designated perimeter nor extend beyond the frontage of its adjoining restaurant or business.
- (5) The total number of seats (both indoors and outdoors) shall not exceed the restaurant's occupancy permit.
- (6) The operation of sidewalk cafes and encroachments shall be exempt from off-street parking requirements set forth in the Zoning Ordinance and from the payment of water and sewer availability fees for the additional temporary seating capacity of the café or encroachment.
- (7) No café shall begin operations until the Zoning Administrator has reviewed and approved a Certificate of Insurance indicating that the business operator has general liability insurance coverage for personal injury and property damage in the amount of \$1 million per occurrence and \$1 million aggregate, with the City named as an additional insured entity. Such Certificate shall further indicate that such coverage shall not be modified or canceled for any reason without the insurer providing the City with at least thirty (30) days prior notice of such change(s).

### **D. Café and Encroachment Specifications.**

- (1) **Size:** Sidewalk café operations shall be confined to a physical area approved by the Zoning Administrator. The size, scale, proportion and overall design of the café shall be reviewed and approved by the Zoning Administrator to ensure that the café is compatible with the adjoining buildings, streetscape and character of the zoning district. The approved size of the café will be based partly on the width of the sidewalk upon which it is located and the space available for pedestrian passage.
- (2) **Operation/Maintenance:** The café or encroachment operator shall be responsible at all times for the maintenance of an attractive, clean, and safe café or encroachment area. Cleanup and necessary maintenance of

the café or encroachment area is the sole responsibility of the designated café or encroachment operator. Trash, cigarette butts, sweepings, spills, etc. must be collected (or mopped) from the café or encroachment area, the adjoining curb line and any adjoining tree wells and placed into the business's private trash containers, not in public trash containers or swept into the street. Trash clean up and sweeping must be complete within an hour of closing every day the café is in use. The operator shall power wash the café area annually and as otherwise directed by the City.

All movable objects or equipment (e.g. tables, chairs, furnishings and fixtures) required to operate the café or encroachment shall be removed from the café or encroachment area and stored out of public view at closing time each day and during the off-season or when the café or encroachment is not in operation for more than a five-day period.

- (3) **Floor:** Only the existing sidewalk surface is to be used for placement of removable café or encroachment furnishings.
- (4) **Enclosure:** A non-permanent perimeter enclosure shall be required, in the form of self-supporting planters, railings, and/or fences around sidewalk cafés where alcohol is served. Enclosures may be provided around other cafés at the operator's discretion. Enclosures shall be temporary and removable, no permanent enclosures are permitted. The enclosure shall enhance the Downtown atmosphere and is subject to the following design guidelines:
  - a. **Stanchions and Posts:** Stanchions and posts shall be constructed of wood, metal (aluminum, steel, iron, or similar), or hard plastic. They shall be commercial grade and sturdy enough to withstand weather.
  - b. **Planters / Plantings:** Planters may be used in conjunction with a chain or rope to enclose the café. Empty planters are not permitted and planters shall contain natural plants. The combined height of plants and planter may be no more than six feet above the grade of the sidewalk. All planters shall be of a visually similar design, construction, and color.
  - c. **Sectional Fencing:** Sectional fencing may be used to enclose the café. Sectional fencing shall be made of metal or wood. All sectional fencing shall be portable, self-supporting, and sturdy enough to withstand weather. Sectional fencing shall not be chain link, cyclone fencing, chicken wire or similar appurtenance. Sectional fencing shall not include any signage.
  - d. **Enclosure Height:** All enclosure materials shall be between 24 inches and 48 inches in height.
- (5) **Canopies, Awnings, and Umbrellas:** Awnings, canopies and any other improvements which are attached to and alter a permanent building located within the Old and Historic Fredericksburg Zoning District shall require approval of the Architectural Review Board (ARB) and the Zoning Administrator prior to construction. All other awnings, canopies, umbrellas or other improvements shall require approval of the Zoning

Administrator, provided that such facilities are compatible with the adjoining buildings, streetscape, zoning district requirements, and the following design guidelines:

- a. **Umbrella Location:** All umbrella parts (including the fabric and supporting ribs) shall be contained entirely within the sidewalk café area.
  - b. **Umbrella Height:** When extended, the umbrella shall measure at least 7 feet above the sidewalk at its lowest point. No part of the umbrella shall exceed ten feet above the sidewalk.
  - c. **Umbrella Materials / Appearance:** Umbrellas shall be of a canvas-type material and may not be made of plastic/vinyl laminated fabrics or any type of rigid material.
  - d. **Awning and Umbrella Signage:** The name of the restaurant or business may be painted or sewn onto an awning or umbrella in accordance with Unified Development Ordinance section 72-59. Any signage on an awning or other improvement permanently attached to a building shall be subject to Architectural Review Board review.
- (6) **Menu Boards:** One blackboard/chalk menu board or easel placed within the café perimeter may be permitted. The menu board shall be no larger than five (5) square feet.
- (7) **Furnishings:** The furnishings of the café interior shall consist of temporary fixtures and decorative accessories. No permanent fixtures or improvements shall be permitted for either a café or an encroachment. Furnishings are subject to the following design guidelines:
- a. *Furnishings Allowed:* Café furnishings are limited to seats, tables, and umbrellas. Encroachment furnishings are limited to a table with an area of less than two square feet, two chairs, or one bench.
  - b. *Furnishings Character:* Furnishings shall be made of a durable quality exterior commercial grade material and be sturdy enough to withstand weather. Furnishings shall be maintained in good visual appearance, without deterioration, dents, rust, corrosion, chipped or peeling paint.
  - c. *Furnishings Color / Design:* All tables and chairs shall be of a visually similar design. Furnishings shall be aesthetically compatible with an enclosure where applicable.
- (8) **Refuse/Storage:** No overnight storage of any kind is permitted within a café or encroachment (including trash or refuse).
- (9) **Clear Path:** There shall be a distance of at least four (4) feet free from obstruction between the café and any impediments including street lights, trash cans or street trees. Along the clear path, there must be a five foot by five foot space clear from obstruction at a minimum every 200 feet.
- (10) **Amplified Music and Cafés:** Sidewalk cafés may have speakers. The speakers shall be oriented towards the café. Any operator of a café where existing speakers are not currently oriented towards café areas as of March 1, 2015 will have until June 1, 2015 to reorient their speakers. Amplified

music shall not interfere with the operation of another café or otherwise negatively impact the Downtown ambience.

#### **E. Applications.**

- (1) Any person seeking to operate a sidewalk café or encroachment shall file an application with the Zoning Administrator at least thirty (30) days prior to the date on which such person intends to begin café or encroachment operations. The application shall be on a form supplied by the Zoning Administrator.
- (2) A sidewalk café application shall include the following information:
  - a. Three (3) copies of the applicant's sidewalk café plan or drawing, depicting the proposed café area boundary, placement of tables, chairs, signs, awnings and other equipment or furnishings;
  - b. Any other information reasonably requested by the Zoning Administrator; and
  - c. Telephone number or other contact information acceptable to the Zoning Administrator for 24-hour communications with one or more persons who shall be responsible to address any problems requiring immediate attention, and certification that the applicant has provided this information to adjoining businesses.
- (3) A sidewalk encroachment application shall include the following information:
  - a. A completed sidewalk encroachment application with an attached plan or drawing, depicting the proposed placement of a small table, chairs, or other seating;
  - b. Any other information reasonably requested by the Zoning Administrator; and
  - c. Telephone number or other contact information acceptable to the Zoning Administrator for 24-hour communications with one or more persons who shall be responsible to address any problems requiring immediate attention, and certification that the applicant has provided this information to adjoining businesses.
- (4) Within fifteen (15) days of receipt of a complete application, the Zoning Administrator shall review and either approve or deny a Sidewalk Café License (License). If the application requires ARB approval for structural alterations, the Zoning Administrator shall take such action pending ARB review.

#### **F. Licenses.**

- (1) Prior to final issuance of a License by the Zoning Administrator, the applicant for a sidewalk café shall certify that they have received approval from all relevant governmental authorities to operate, including the Health Department and the Alcoholic Beverage Control Board of the Commonwealth of Virginia and the ARB.

- (2) The Zoning Administrator shall have sole discretion to issue a License to the café or sidewalk encroachment operator. The License shall contain such terms and conditions as the Zoning Administrator determines are necessary to protect the public health, safety and welfare. The Zoning Administrator shall also have the authority to waive or modify any of the specifications and requirements set forth in sections 8-1.C and 8-1.D above.
- (3) The License, as issued and signed by the Zoning Administrator, shall contain a statement, executed by the Licensee, that they agree to indemnify and hold harmless the City, its agents, and employees from any and all losses, damages, expenses and claims arising out of the Licensee's design, construction, operation and maintenance of the sidewalk café or encroachment.
- (4) The initial License issued by the Zoning Administrator shall be valid for one (1) year from the date of issuance. The License period shall start annually on March 1. Starting in 2016, existing licenses will expire on March 1 unless renewed.
- (5) The Zoning Administrator may re-issue licenses for periods up to three (3) years, with such modifications as the Zoning Administrator deems appropriate. If any application for renewal involves exterior alterations to the restaurant building, the applicant shall submit an application to the ARB prior to re-issuance of the License.
- (6) There shall be no fee for sidewalk cafés or encroachments.

**G. Enforcement; Suspension and Termination.**

- (1) The Zoning Administrator shall have the authority to inspect sidewalk cafes or encroachments at any time and to take all necessary steps to enforce the provisions of this section. In the event that the Zoning Administrator discovers a violation of the Operation/Maintenance standards of this policy, any other violation, or conflict with pedestrian or automobile traffic which, in his opinion requires an immediate response, the Zoning Administrator shall contact the operator using the point-of-contact information provided, and require compliance within two hours of contact. In the event that the Zoning Administrator suspects that a sidewalk café or encroachment operator has failed to comply with any other provision of this section, any provision of its License, or any other provision of law, the Zoning Administrator shall provide the operator with a written Notice of Violation, detailing the violation(s) and giving the Licensee a minimum of forty-eight (48) hours to remedy such violation(s).
- (2) If a café or encroachment operator fails to correct any violation specified in a Notice of Violation within the time period set forth therein, the Zoning Administrator shall have the right to suspend or revoke the operator's



License for cause with at least two (2) weeks prior written notice to the Licensee.

- (3) The Zoning Administrator shall have the right to terminate any License for the convenience of the City, upon two (2) weeks prior written notice to the operator.
- (4) The Zoning Administrator, the Director of Public Works, the Chief of Police, or the Fire Marshall shall have the authority to require all Licensees to suspend or limit café or encroachment operations or to relocate, remove or alter all or part of the café or encroachment structure or improvements, either temporarily or permanently, in order to facilitate or allow City operations, maintenance, or construction upon public property.
- (5) In the event of an emergency, the Zoning Administrator, the Director of Public Works, the Chief of Police, or the Fire Marshall shall have the authority to require the immediate suspension of operations of a sidewalk café or encroachment and/or the removal of all physical improvements constituting the café or encroachment structure.