

AN ORDINANCE AMENDING CHAPTER 74 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE VI. SIDEWALK CAFES AND OUTDOOR SEATING OF THE CITY CODE OF THE CITY OF NORTHVILLE.

The City Council of the City of Northville, Michigan hereby ordains as follows SECTION 1: AMENDMENTS TO CHAPTER 74 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE VI. SIDEWALK CAFES AND OUTDOOR SEATING OF THE CITY CODE OF THE CITY OF NORTHVILLE

~~**ARTICLE VI. SIDEWALK CAFES AND OUTDOOR SEATING**~~

ARTICLE VI. OUTDOOR DINING

Sec. 74-171. Purpose.

The ~~sidewalk cafe and outdoor seating~~ **Outdoor Dining** regulations, as established in this article, are designed to allow ~~sidewalk cafes or outdoor seating~~ **Outdoor Dining** on public property in locations where they are determined to be appropriate by the city manager or designee, and to promote and protect the public health, safety, and general welfare of the community. These general goals include, among others, the following specific purposes:

- (1) To attract residents and non-residents to downtown Northville;
- (2) To provide an additional way for restaurants or food establishments to expand their operations;
- (3) To promote ~~sidewalk cafes and outdoor seating~~ **Outdoor Dining** as useful and properly planned visual amenities;
- (4) To provide adequate space for pedestrians on the **Sidewalk** adjacent to ~~sidewalk cafes or outdoor seating~~ **Outdoor Dining** and to ~~insure~~ **ensure** access to adjacent commercial and retail uses;
- (5) To promote the most desirable use of land and buildings and thereby protect the city's tax revenues;
- (6) To provide for penalties for violations of this article.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-172. Definitions.

~~*Dining Platform* means a platform operated by an existing restaurant or food establishment which sells food, beverages or alcoholic beverages for immediate consumption, subject to design guidelines outlined herein, located on a public sidewalk and the abutting parking space in front of the establishment for patrons and other persons. The dining platform cannot straddle two parking spaces, and can only be accessed from the sidewalk. This area provides waiter, waitress, counter and take-out service. It contains readily removable tables, chairs, railings or planters, and is enclosed by a railing and open to the air, except that it may have table umbrellas and outdoor heating units. The dining platform is allowable only to businesses abutting sidewalks which are less than 16 feet. No food or beverages shall be consumed by a patron at a sidewalk café unless that person is seated at a table per~~

Sec. 74-175 (d). A Permit is issued in accordance with the Outdoor Dining Platform Requirements and Guidelines as adopted by City Council. Platform Dining applicants must conform to the requirements and Commercial Design Standards for Platform Dining as adopted by the Historic District Commission. Any Deviation from the Adopted Policy or Design Standards Shall Require Review and Approval by the HDC and/or City Council.

Outdoor seating means an outdoor area operated by an existing restaurant or other food establishment which sells food or beverages for immediate consumption, located on a public sidewalk, or other public property, which is public through dedication or easement or public right of way that provides seating outside of an establishment for patrons and other persons, and contains readily removable tables, chairs, railings, or planters. This area does not provide waiter or waitress service or offer alcoholic beverages. It is unenclosed by fixed walls and open to the air.

Sidewalk cafe means an outdoor dining area operated by an existing restaurant or other food establishment which sells food, beverages, or alcoholic beverages for immediate consumption, located on a public sidewalk, or other public property, which is public through dedication or easement or public right of way that provides waiter, waitress service or counter service and contains readily removable tables, chairs, railings, or planters. It is otherwise unenclosed by fixed walls and open to the air, except that it may have table umbrellas or other non-permanent cover.

Sidewalk cafe or outdoor seating permit means a permit issued by the city clerk based upon approval by the city manager or designee, which conforms to the procedures and regulations of this article, for sidewalk cafe or outdoor seating operations.

(Ord. No. 2-20-01, 3-19-01)

Outdoor Dining means a Restaurant that provides their food and beverages in open air on a city Sidewalk, Street, or other city property.

Permit means a city Outdoor Dining Permit issued by City Clerk, based on approval by the city manager or designee, which conforms to the procedures and regulations of this article.

Restaurant means an establishment which sells food and beverages, non-alcoholic and/or alcoholic, for immediate on-premise consumption. A Restaurant not serving alcohol provides sit-down full-service licensed by Wayne or Oakland County. A Restaurant serving alcohol provides sit-down full-service that is also licensed by the Michigan Liquor Control Commission.

Sidewalk means a paved or covered walkway which is a dedicated public right-of-way or easement improved and intended for pedestrian use.

Site furnishing means furniture, fixtures, or other equipment located within the Outdoor Restaurant Area. This includes chairs, tables, railings, planters, lighting, umbrellas or other overhead covers, and other furnishings. All of these items must be readily removable and not fixed to a surface.

Street means a city road or street surface area or right-of-way.

Sec. 74-173. Permit procedures.

- (a) The city clerk or designee is authorized to issue a Permit to operate Outdoor Dining sidewalk cafe or that provide outdoor seating on public property provided that the applicant has complied with the standards set forth in this article.
- (b) Sidewalk cafe or outdoor-Permit applications for establishments operating on public Sidewalks, Streets or public property shall be reviewed by city staff administration and approved by the city manager or designee. The city manager or designee reserves the right to forward a Permit application to the city council for its review and consideration. Outdoor Dining establishments with serving alcohol require approval by the

Michigan Liquor Control Commission (M.L.C.C.). No Permit shall be issued to a Restaurant serving alcohol until such license or permit, as required by the M.L.C.C., has been approved and the local approval resolution has been approved by the Liquor License Review Committee (LLRC) and city council. The city clerk shall be permitted to issue a Permit prior to the Restaurant receiving approval from the MLCC to allow the Restaurant to serve food and non-alcoholic drinks with the city manager or designee approval.

(c) (1) ~~All Permits shall be issued on an calendar year annual basis and shall expire on December 1st. Unless another time frame is specified in the permit, or by the requirements of this article, the permit shall allow the operation of a Outdoor Dining sidewalk cafe or outdoor seating from March 15 up to and including November 7th. May 1st to November 1st of the calendar year for which the Permit is issued with the exceptions noted below. During this time period, Outdoor Dining may take place on the public Sidewalks or on the adjacent Street when the Streets roads are closed to vehicular traffic. The location on the Street will be described in the Outdoor Dining Permit issued by the city clerk or designee. All Outdoor Dining Permits shall be reapplied for annually (section 74-179).~~

(2) ~~(1) Exceptions:~~

To allow establishments to take advantage of good weather, operation of an Outdoor Dining area sidewalk cafe or outdoor seating is permitted prior to March 15 and or after November 7 from ~~April 1st to May 1st and November 1st to December 1st~~ on a day by day basis subject to the following restrictions:

a. ~~Outdoor Dining will take place on the permitted area of the Sidewalk. No Outdoor Dining will be allowed in the Street during this time.~~

a. ~~b. The establishment has been issued an Permit for the current calendar year.~~

b. ~~c. A certificate of insurance, meeting the insurance requirements in this section, has been filed with the city administration.~~

c. ~~d. The operation of the an Outdoor Dining area sidewalk cafe or outdoor seating shall not interfere with the set up or the operation of any special event.~~

d. ~~e. All Site Furnishings tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of an Outdoor Dining establishment sidewalk cafe or outdoor seating shall be maintained and be easily removed, if necessary, each night. removed and stored inside of the establishment each night.~~

e. ~~f. During periods of snow accumulation, the placement of Site Furnishings tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of a Restaurant sidewalk cafe or outdoor seating shall be placed in a manner that allows no less than 42-60 inches of cleared sidewalk for pedestrian use. **MOVED TO NEW SECTION BELOW**~~

~~(d) (c)~~ Any person or establishment granted issued a Permit by the city manager ~~city clerk or designee~~ to operate an Outdoor Dining establishment sidewalk cafe or provide outdoor seating on public sidewalks or public property shall pay to the city treasurer a fee in the amount as established by resolution of the city council. The city ~~administration clerk or designee~~ shall not issue an Outdoor Dining Permit unless the fees required by this section are paid.

~~(e) (d)~~ Existing establishment signage shall ~~be in compliance~~ comply with the city sign ordinance before an Outdoor Dining Permit will be granted.

~~(f) (e)~~ Each Outdoor Dining Permit application for an Outdoor Dining cafe or outdoor seating shall be accompanied by a policy or certificate of insurance, in an amount acceptable to the city, including workers compensation, naming the city as an additional insured. Establishments serving alcohol shall also provide a liquor liability policy or certificate of insurance naming the city as an additional insured. A company authorized to do business in the state shall issue such insurance. Required insurance amounts shall be set from time to time

by resolution of the city council. The policy or certificate shall contain a clause requiring the insuring company to give ten days written notice to the ~~city manager~~ **city clerk or designee** prior to canceling the policy.

The insurance certificate required by this article shall be in effect for any period during which the sidewalk cafe or outdoor seating is in operation. Failure to provide a current insurance certificate shall be cause for denial, suspension, or revocation of the sidewalk cafe or outdoor seating permit. No establishment shall operate a sidewalk cafe or provide outdoor seating without filing proof of proper insurance. Denied, suspended, or revoked permits may be re-instated upon submittal of proof of proper insurance.

~~(e)~~ **(f)** Site development and application approval.

- (1) No outdoor service of food and/or beverages in the form of an **outdoor dining establishment** ~~sidewalk cafe or outdoor seating~~ shall be established on public property, except in conformance with a site development plan reviewed by **city administration** and approved by the city manager **or designee** as required by this article.
- (2) **An application for a Permit available from city clerk** for site development plan approval shall be submitted to ~~the city clerk or designee~~. The application shall include, but shall not be limited to the following:
 - a. Name of the applicant and business.
 - b. Address of the business.
 - c. Address of the applicant.
 - d. Telephone number of the applicant and business.
 - e. Name of the property owner if other than applicant.
 - f. Address of the property owner if other than applicant.
 - g. Telephone number of the property owner if other than applicant.
 - h. Name of planner, engineer, architect or agent, if applicable.
 - i. Proposed dates of occupancy.
 - j. Proposed hours of occupancy.
 - k. Proposed number of tables, chairs, railings, posts, table umbrellas or other items.
 - l. Proposed color, design, materials, and workmanship of tables, chairs, railings, posts, table umbrellas or other items.
 - m. Proposed area of occupancy including square feet and dimensions.
 - n. Whether alcohol will be served.
 - o. Whether dance and/or entertainment will be on-premises. The applicant shall complete an additional application for a dance/entertainment license with the city if this is the case and pay any fees associated with this license as outlined under the city code.**
 - ~~e.p.~~ Copy of certificate of insurance.
 - ~~p.q~~ Whether **Permit** application is a new application or renewal; if renewal, **the** applicant shall describe any changes from the previous application.
 - ~~q.r~~ Written authorization from the owner of the property shall be required where the applicant is not the owner of the affected property.

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- (3) The site development plan and the accompanying application shall show the following:
- a. The applicant's entire property and adjacent properties on a location map with streets for a distance of at least 25 feet at a scale showing detail sufficient for proper review. The site plan shall be submitted on a sheet no smaller than 8½ inches × 11 inches and no larger than 11 inches × 17 inches. Site plans smaller or larger than the sizes prescribed by this article shall not be accepted.
 - b. A detailed plan showing the design, relevant details, and location of all temporary **Site Furnishings** structures such as, but not limited to planters, landscaping, railings, tables, chairs, table umbrellas, electrical outlets or appliances, hydrants, all ingress and egress, **sound equipment**, existing lighting, and other equipment, shall accompany the site development plan and Permit application.
 - c. **Propane heaters can only be used in the permitted area and must be continuously monitored.**
- (4) The city clerk or designee shall distribute copies of the site development plan and Permit application to ~~the city manager, chief of police, fire chief, code enforcement officer, downtown development director, and director of public works~~ **city administration** for review and comments in relation to compliance with this article and all other city ordinances.
- ~~(h)~~ **(g)** Conditions specific to the operation of a business may be incorporated into the permit as required by ~~city staff or the city manager~~ **city administration**.
- ~~(i)~~ **(h)** ~~City staff~~ **administration**, using historic district standards, shall review permit applications for establishments within the historic district. Appeals shall be made to the historic district commission.
- ~~(j)~~ **(i)** Based upon review comments from ~~city staff~~ **administration**, the city manager **or designee** may approve, approve with conditions, refer the application back to the applicant for modification, deny the application, or refer the application to the city council. If approved, the city manager **or designee** shall authorize the city clerk to issue a ~~sidewalk cafe or outdoor seating~~ **Permit**.
- ~~(k)~~ **(j)** If the city manager or designee denies the application for an **Outdoor Dining** ~~sidewalk cafe or outdoor seating~~ **Permit**, the reason for this determination will be stated in a letter to the applicant. The applicant may appeal the decision in accordance with section 74-177 of this article.
- ~~(l)~~ **(k)** In addition to any fees required by this article, establishments applying for any license or permit issued by the M.L.C.C. shall be required to pay a non-refundable liquor licensing permit fee to the city in an amount as established by resolution of the city council.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-174. Duration.

~~(c)~~ **(1)**

- (a) All Permits shall be issued on an ~~calendar year~~ **annual** basis and shall expire on December 1st. Unless another time frame is specified in the permit, or by the requirements of this article, the permit shall allow the operation of a ~~Outdoor Dining~~ **sidewalk cafe or outdoor seating** from ~~March 15 up to and including November 7th~~ **May 1st to November 1st** of the calendar year for which the Permit is issued **with the exceptions noted below. During this time period, Outdoor Dining may take place on the public Sidewalks or on the adjacent Street when the Streets roads are closed to vehicular traffic. The location on the Street will be described in the Outdoor Dining Permit issued by the city clerk or designee. All Outdoor Dining Permits shall be reapplied for annually (section 74-179).**

~~(2)~~ **(1) Exceptions:**

To allow establishments to take advantage of good weather, operation of an Outdoor Dining area sidewalk cafe or outdoor seating is permitted prior to March 15 and or after November 7 from April 1st - May 1st and November 1st to December 1st on a day-by-day basis subject to the following restrictions:

- a. Outdoor Dining will take place on the permitted area of the Sidewalk. No Outdoor Dining will be allowed in the Street during this time.
- a. b. The establishment has been issued an Permit for the current calendar year.
- b.-c. A certificate of insurance, meeting the insurance requirements in this section, has been filed with the city administration.
- c.-d. The operation of the an Outdoor Dining area sidewalk cafe or outdoor seating shall not interfere with the set up or the operation of any special event.
- d.-e. All Site Furnishings tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of an Outdoor Dining establishment sidewalk cafe or outdoor seating shall be maintained and be easily removed, if necessary, each night. removed and stored inside of the establishment each night.
- e.-f. During periods of snow accumulation, the placement of Site Furnishings tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of a Restaurant sidewalk cafe or outdoor seating shall be placed in a manner that allows no less than 42 60 inches of cleared sidewalk for pedestrian use.

Sec. 74-174175. Standards.

- (a) There shall be a minimum of 42 60 inches, exclusive of the area occupied by the Outdoor Dining establishment sidewalk cafe or outdoor seating, designed to allow adequate pedestrian movement. Outdoor Dining Cafes or outdoor seating shall only be permitted where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. The city manager or designee shall determine when a hazardous condition exists in the public right-of-way.
- (b) Sidewalk cafes or outdoor Outdoor Dining may only be located immediately adjacent to the establishment with which they are associated. If the applicant wishes to extend their outdoor seating beyond the area in front of their building, a written letter of support from the adjacent property owner(s) is recommended. Outdoor Dining Sidewalk cafes or outdoor seating areas must remain clear of litter, food scraps, and soiled dishes at all times.
- (c) Employees of the establishment shall continuously supervise Outdoor Dining areas serving alcoholic beverages.
- (d) Setting up a barrier such as planters or a railing to physically separate patrons from pedestrian traffic shall delineate the perimeter of a Outdoor Dining area sidewalk cafe serving alcoholic beverages. All barriers used for Outdoor Dining sidewalk cafes serving liquor shall also conform M.L.C.C. regulations.
- (e) Site Furnishings for Outdoor Dining sidewalk cafe or outdoor seating shall consist solely of readily removable furnishing railings, posts, tables, chairs, planters, and table umbrellas. Furnishings may only be attached or secured in a manner approved by the city manager or designee. Such anchoring devices, when removed, shall not create a hazard for pedestrian traffic. Objects, which are part of the sidewalk cafe or outdoor seating, may be attached or secured to any building or structure on which the sidewalk cafe or outdoor seating abuts in a manner approved by the city manager or designee. Site Furnishings are prohibited from being attached or anchored to Sidewalks and Streets.
- (f) No structure or enclosure to accommodate the storage of accumulated garbage, i.e. shed, may be erected or placed adjacent to or near the Outdoor Dining area sidewalk cafe or outdoor seating located on public

property. Each establishment shall be responsible for providing appropriate containers for disposing of garbage or waste and employees shall not use city trash containers for disposing of garbage or waste.

- (g) A **Outdoor Dining sidewalk cafe or outdoor seating** shall not interfere with any public service facility, such as a telephone, mailbox, or bench located on a **Sidewalk** or public property.
- (h) Operation of an **Outdoor Dining sidewalk cafe or outdoor seating establishment** shall not adversely impact adjacent or nearby residential, religious, educational, or commercial properties and shall be in accordance with all applicable codes and regulations.
- (i) **Site Furnishings** Tables, chairs, table umbrellas, railings, planters, and any other objects provided with by the **Restaurant offering Outdoor Dining sidewalk cafe or outdoor seating** shall be of quality design, materials, and workmanship both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the area. Such equipment shall be routinely cleaned, painted, or replaced and may be inspected by the city manager or designee.
- (j) **Outdoor Dining cannot be used as an area for any storage.**

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-175176. Operating restrictions.

- (a) All **Outdoor Dining sidewalk cafes serving establishments where alcoholic beverages are served** shall be allowed to operate during the hours of **10:00 a.m. until 1:00 a.m., Monday through Saturday (Saturday defined as 1:00 a.m. Sunday morning), and Sunday during the hours of 10:00 a.m. until 10:00 p.m. Monday through Saturday sales and service shall cease by 12:30 a.m. and all areas shall be vacated by 1:00 a.m. Sunday sales and service shall cease by 9:30 p.m. and all areas shall be vacated by 10:00 p.m. 10:00 a.m. until 2:00 a.m., Monday through Sunday.**
- (b) The consumption of alcoholic beverages at an **Outdoor Dining establishment sidewalk cafe** within the confines of the **permitted sidewalk cafe** area shall not be construed as a violation of any ordinance controlling open containers in a public area. The operator of the **Restaurant sidewalk cafe** shall take all necessary action to procure the appropriate license or permit from the M.L.C.C. to serve alcoholic beverages in the **Restaurant sidewalk cafe** and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the state.
- (c) All food to be served at an **Outdoor Dining establishment sidewalk cafe or outdoor seating** shall be prepared within the existing establishment unless approved by the city council as part of a special event application request.
- (d) **The Outdoor Dining establishment** shall not serve food or beverages to a patron **at a sidewalk cafe** unless that patron is seated at a table.
- (e) The **Outdoor Dining sidewalk cafe or outdoor seating Permit** issued in accordance with this article shall be prominently displayed within the existing establishment along with other required permits and licenses.
- (f) **During the off season, Site Furnishings** chairs, railings, posts, planters, table umbrellas, and other items shall be removed **by December 1** and shall not be stored outside. It shall be the responsibility of the establishment to secure adequate **off-site** storage of these items.
- (g) The maintenance **of an Outdoor Dining sidewalk cafe or outdoor seating** area shall be the responsibility of the establishment including, but not limited to, surface treatment and cleaning, litter control, sweeping, and snow and ice removal. The Sidewalk and public property shall be kept neat and clean at all times and free from any substance that may cause damage to the **Sidewalk** or public property or cause pedestrian injury.
- (h) Advertising on table umbrellas or railings is prohibited.

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- (i) An increase in lighting is prohibited, unless otherwise required through the review process.
 - (j) Noise ordinance must be adhered to with regards to dance and/or entertainment on-premises where applicable.

(Ord. No. 2-20-01, 3-19-01; Ord. No. 06-05-17, § 2, 6-19-17; Ord. No. 08-03-20 , § 2, 8-17-20)

Sec. 74-~~176~~177. Denial, revocation and suspension—Causes enumerated.

The issuance of permits applied for under this article or any other ordinance of the city may be denied by the city manager or designee, and permits issued may be revoked or suspended by the city manager or designee at any time, for any of the following causes:

- (1) Fraud, misrepresentation or any false statement made in the permit application.
- (2) Fraud, misrepresentation or any false statement made in the operation of the sidewalk cafe or outdoor seating.
- (3) Any violation of this article or any other ordinance of the city.
- (4) Any violation received during the previous permit period.
- (5) Conducting a business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, morals, safety or welfare of the public.
- (6) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this article and every other ordinance of the city.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-~~177~~178. Same—Hearing demand; review; council powers.

Any person whose permit is revoked or suspended, or any person whose application for a Permit is denied, shall have the right to a hearing before the city council, provided a written request therefore is filed with the city administration clerk within ten days following the delivery or mailing of the notice of revocation or suspension, or within ten days following the denial of the permit application. No person shall operate any Outdoor Dining establishment sidewalk cafe or outdoor seating during any time when the permit therefore has been suspended, revoked, or canceled.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-~~178~~179. Revocation or suspension; notice required; service.

Written notice of suspension or revocation, stating the causes therefore, shall be delivered to the permittee personally or mailed to the address as shown in the permit application. Upon revocation of a license, all furnishings and fixtures shall be removed from public property within 24 hours.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-~~179~~180. Renewal considered as original application.

Unless otherwise provided in this article, an application for renewal of a Permit sidewalk cafe or outdoor seating permit shall be considered in the same manner as an original application.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-180181. Transferal.

No permit issued under the provisions of this article or any other ordinance of the city shall be transferable.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-181182. Violations.

- (a) Any person who operates an **Outdoor Dining establishment** ~~sidewalk cafe or outdoor seating on public~~ sidewalks or public property, without a **Permit**, or who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction, punishable by a civil fine of not more than \$500.00 and the costs of prosecution.
- (b) The city council may establish the amount of a civil fine for a municipal civil infraction that may be paid at the city violations bureau for violations of this article, except that all violations alleging operating without a permit and other violations in excess of three in any calendar year may be handled by the district court.
- (c) The city may suspend or revoke any permit issued, or deny the issuance of a permit as provided in section 74-176 regardless of whether the operator has been cited, paid a civil fine, or been found responsible for a violation of this article pursuant to this section.

(Ord. No. 2-20-01, 3-19-01)

Sec. 74-182183. Severability.

If any clause, sentence, paragraph or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

(Ord. No. 2-20-01, 3-19-01)