

RETAIL USE OF PUBLIC SIDEWALKS

Policies & Procedures

For The Permitted Use of the Public Right-of-Way



Department of Public Works & Transportation

May, 2007

Retail Use of Public Sidewalks Policies & Procedures

The Retail Use of Public Sidewalks Policies and Procedures (Rules) shall be followed, in addition to the City of St. Joseph Code of Ordinances (Code) concerning vending, health codes, and liquor licenses. The general provisions of Chapter 25 shall also apply as it pertains to use, conduct, maintenance, and public safety issues. Zoning and public appearance/appropriateness issues shall fall under the purview of the Downtown Review Board (Board) or Planning Department (Planning) as well. In the event of a conflict, the documents shall have the following order of precedence: (1) Code; (2) Rules; (3) Board.

Application Process

Permits are required for the following activities: sidewalk cafes; sampling; vending, entertainers, sidewalk sales, special events, and any special activity. Completed applications shall be submitted to the City Planner or his/her designee. Applications are then reviewed by the Board (in the Downtown area) or by the Planning Department if in an area outside the Downtown “Downtown” is defined as the area of responsibility set forth for the Downtown Review Board. All applications must be completely filled out and legible in order to be reviewed by the Board. Any illegible or incomplete applications will be returned. Approval of the completed applications shall be based upon the following criteria:

- ✓ Background, as requested in the application
- ✓ Experience
- ✓ Product Choice
- ✓ Sale Price and Quality of the product
- ✓ Benefit of the activity to the Downtown or immediate area
- ✓ Impact of the activity to the Downtown or immediate area

Merchandise vending (mobile sites not associated with a permanent structure and or business adjacent to the activity), are limited to four locations selling similar products, unless otherwise approved by the Committee or Planning. It shall be unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any permit issued by the Department of Public Works (Department), to conduct, own, (either in whole or in part) or be directly or indirectly interested in more than two (2) permits issued pursuant to this division.

Vendor/Temporary Carts

Cart Design Guidelines

*These guidelines are in addition to the P-1 Downtown Precise Plan Zoning District regulations that are now in effect, or as amended in future actions.

A. *Canopy/Umbrella*

Approved canopy colors are: Sunbrella Pacific Blue – Style 4601
Sunbrella Sea Grass Green – Style 4645
Sunbrella Buttercup – Style 4635

Or an approved, similar color as reasonably determined by the Board or Planning.

B. *Signage and Graphics*

All Canopies must include graphics reading “Downtown St. Joseph” for activities in the Downtown area only. All exterior graphics must be professionally produced and approved by the Board or Planning. Handwritten signs will not be permitted on the cart other than one chalkboard which may be used for daily specials.

All signage must comply with the City Sign Code.

C. *Skirting*

Any permittee storing boxes of additional product under the cart is required to have a skirt around the body of the cart that completely hides all boxes from public view. Skirting should match the approved canopy color.

D. *Other*

Vendors are limited to two (2) coolers and permits for additional coolers under certain circumstances. Additional elements shall be approved by an Exceptions Committee that will be appointed by the Director of Public Works & Transportation at the time of such request, comprised of, but not limited to, representatives from Board, Planning, Fire, Police, and Public Works.

Extensions cords or power cords outside the cart must be secured with an approved cord cover to eliminate any tripping hazards. Cords must be UL-rated for outdoor use and circuit protected. Approved cord and cord cover colors are brown, black, dark grey and green.

In addition to storage located on the cart, food vendors will be permitted one additional storage tub located next to the cart for additional product. Storage tubs must be in good condition, free of cracks and stains and must be approved by the Director of Public Works & Transportation or his designee. Approved tubs will have a clear plastic body, white top, and may be no larger than 30 gallons.

Towing hitches must be included in the application review process by the Board or Planning. Towing hitches shall be less than three (3) feet in length. Vendors shall make reasonable efforts to minimize safety issues related to towing hitches.

Vendors are permitted to have one trash receptacle. The approved receptacle must be white or stainless steel and may be no larger than 2' high x 2' wide x 15" deep.

Operating Guidelines

- ✓ Carts must be clean, sanitary, safe, and in good working condition at all times. The determination of whether the cart condition complies with the foregoing is at the sole discretion of the Director or his designee. The Director can submit a written Work Order to the permittee if the Director or his designee determines that the cart does not comply with Code, Rules, or Board. If a work order is submitted to the permittee, the permittee is obligated to repair the cart at his/her expense in a timely manner, not to exceed 30 calendar days. The permittee may appeal the requirements of the work order to the Board. Such appeal must be submitted in writing with ten (10) calendar days of the permittee's receipt of the work order.
- ✓ No cart shall be located on the sidewalk in a manner that obstructs the sight triangle of an intersection.
- ✓ The location utilized by all carts must meet City standards regarding condition. No permit shall be issued to operate on a substandard sidewalk that requires repair for safe use.
- ✓ All vending activities must retain a minimum of five (5) feet of sidewalk clear width for public access and to meet the requirements of the Americans with Disabilities Act.
- ✓ Permittee shall supply evidence of all licenses and permits required by the City of St. Joseph or State of Missouri, before a permit is issued.
- ✓ Insurance:
 - Proof of insurance documenting the existence of a one million dollar comprehensive liability policy, with policy limits of no less than one million dollars, naming the City of St. Joseph as an additional named insured shall be provided.
 - The Permittee agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss of, or damage to, property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind whatsoever in any way resulting from or arising out of the acts or omissions of officers, employees and volunteers of the Permittee connected with the Permittee's operations, regardless of whether such acts or omissions were caused in part by the CITY. At its own cost and expense, Permittee will defend and protect the CITY from and against any and all such claims or demands and will defend all suits arising therefrom.

- ✓ All City permits and/or licenses must be made available when requested by anyone. Food carts must have the public sidewalk use permit displayed in a prominent place on the cart.
- ✓ Merchandise must be displayed in a neat and orderly fashion.
- ✓ Display of merchandise outside the cart proper is subject to the reasonable approval of the Director or his designee.
- ✓ Carts should not be left unattended for a period of 10 minutes at any one time.
- ✓ The City of St. Joseph is not responsible for damage or theft to any cart, merchandise, or other vendor property or physical injury.
- ✓ Permittee is responsible for renewing his/her permit on an annual basis. Failure to do so in accordance with all the terms and conditions may result in the loss of the ability to renew.
- ✓ The permit is site specific and cannot be transferred to another location or vendor.
- ✓ No liquid, including water, ice or cleaning solutions, may be poured into the tree pits or onto the walking surface of the sidewalks. However, a reasonable amount of clean water may be used to clean up spills on the sidewalk surface. All slip and fall or tripping hazards arising from the permittee's use of the public sidewalk shall be the responsibility of the permittee.
- ✓ Vendors must practice good customer service and may not use offensive language, or slander or threaten other vendors.
- ✓ Vendors, their employees and/or representatives (vendors), shall be courteous to the public, efficient and neat in appearance. Vendors shall not use foul or vulgar language or act in a loud, boisterous, or otherwise improper or unacceptable manner. Vendors shall not engage in open, notorious and/or public disputes, disagreements or conflicts tending to deteriorate the quality of the surroundings or that of their competitors and/or businesses.
- ✓ Obscene communications or gestures, intimidation in any form, threats (direct or indirect) of violence or physical harm, fighting, gambling, illegal activity, being under the influence of alcohol or illegal substances, or carrying of weapons or illegal substances is strictly prohibited. Any violation may result in immediate revocation of the Permit.
- ✓ Vendors are required to be fully clothed, including shirts and shoes.
- ✓ Vendors are responsible for all litter within fifteen (15) feet of their cart.

- ✓ No propane or other gas cylinders can be stored, attached, or hooked outside the body of the cart unless permitted by the Director or his designee. All gas cylinders used for heating are subject to Fire Department inspection. Unsafe hookup or operation procedures are cause for immediate permit revocation.
- ✓ Vendors are allowed to have radios at their carts for their personal enjoyment only and to create an ambiance within their immediate locations. If a radio can be heard over fifteen (15) feet from the cart, it is too loud. The volume of the vendor's radio must not create a nuisance for those nearby. If complaints are received with regard to the volume of a specific radio, the vendor will be prohibited from having a radio at their cart.
- ✓ Vendors shall not use planters or planting areas in Downtown as a seating area.

Sidewalk Cafes

Revocable permits for the operation of outdoor sidewalk cafes as an extension of an existing indoor restaurant or public seating area, located on a public sidewalk, are permitted subject to the following conditions:

- ✓ Determination by the Director or his designee that the operation will not impede pedestrian or transit traffic. A minimum of five (5) feet of public sidewalk must be maintained to retain public access and to meet Americans with Disabilities Act requirements.
- ✓ The existing condition of all sidewalks for which the applicant is responsible for under City Code is acceptable and does not require repair.
- ✓ The operation shall meet all City and State requirements for licensing and operation – including liquor licensing.
- ✓ The permittee must install and maintain in good condition the following elements within the sidewalk café or public seating area:
 1. Umbrellas, if utilized, shall be installed on the tables closest to the perimeter of the café area, except where tables are sheltered by awnings attached to building walls. Umbrellas that extend beyond the patio railing must be 80” in height above the walking surface at its lowest point (if required).
 2. For any restaurant or establishment serving alcohol, a simple architectural railing around the open perimeter of the café area, which shall be sturdy in weight and design and capable of standing by itself. It shall be affixed to the pavement. Additionally, the material and appearance of the railing is subject to Board review and approval. The access to such area shall be controlled from outside access and shall meet the requirements of the State Liquor Inspector.
 3. Trash receptacles (of a compatible color and type) shall be placed within the perimeter of the café area only.
 4. All elements installed and maintained by the permittee shall be subject to design and maintenance review by the Board and Director or his designee.

Additional conditions:

- ✓ The permittee is responsible for the removal of any rust, grease, cigarette butts, liquids or dirt left on the sidewalk, or replacement of pavement when the railing is removed due to rust or other materials damaging the surface condition or appearance of the pavement.
- ✓ All fixtures, furniture and property that are contained within the permitted area shall stay within the seating area perimeter.
- ✓ It is the responsibility of the permittee to ensure that all trash and litter are promptly removed from the permitted area.
- ✓ Permittee is not allowed to use Downtown trash receptacles for disposal of trash within the permitted area.
- ✓ Insurance:
 - ✓ Proof of insurance documenting the existence of a one million dollar comprehensive liability policy, with policy limits of no less than one million dollars, naming the City of St. Joseph as an additional named insured shall be provided.

- ✓ The Permittee agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss of, or damage to, property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind whatsoever in any way resulting from or arising out of the acts or omissions of officers, employees and volunteers of the Permittee connected with the Permittee's operations, regardless of whether such acts or omissions were caused in part by the CITY. At its own cost and expense, Permittee will defend and protect the CITY from and against any and all such claims or demands and will defend all suits arising therefrom.
- ✓ It is recommended that chairs be removed or secured on the permitted area each evening.
- ✓ The permitted area must be washed to the nearest drain and washed regularly in order to maintain a sanitary surface. Washing should not be performed when the pavement surface is cold enough to freeze.
- ✓ At the conclusion of snow events, the permittee is responsible for the removal of all snow accumulated within the permitted area as well as the public sidewalk area adjacent to the business, as set forth in City Code.

Café Furniture Design

All café furniture shall meet the following design standards:

- Tables & Chairs - Materials
 - Tables and chairs shall match and be made of safe, sturdy and durable material, such as wood, steel, plastic and wrought iron. All furniture shall be commercial grade, and manufactured for outdoor commercial use. Vinyl tablecloths are not recommended.
 - Small round or square tables shall seat no more than four people unless otherwise approved as part of the application process. Tables and chairs shall match.
 - Round tables shall be no larger than 2 ½ feet wide (30" diameter). Square tables shall be no larger than 3 feet wide.
- Flower Boxes & Planters
 - The café owner may use flower boxes or planters to define the boundaries of the café seating area. To avoid blocking the patron's vision while seated, the combined height of the planters and live plants shall not exceed four (4) feet above the sidewalk grade. The boxes or planters shall be no greater in height than 2 ½ feet and no wider than 2 feet at the base. Taller plants may be permitted depending upon the location of the sidewalk café as approved by the City.
 - The flower boxes, planters, and storage bins shall be portable and made of safe, durable and attractive material such as wood or steel.
 - All boxes, planters and planting areas must be planted with seasonal blooming live plants from at least May 1 through October 15. The café owner shall be responsible for the prompt removal of all empty or poorly maintained planting areas.

Menu Boards & Signs

Menu boards, both portable and on walls, shall be subject to sign permit approval in conformance with the City sign Code.

Portable Heaters

Portable heaters are permitted, subject to review and approval by the Fire Department.

Trash Receptacles

The number, type, and location of trash receptacles shall be determined by the City and shall comply with the minimum clear width of five (5) feet to conform to the Americans with Disabilities Act.

Trash receptacles shall be made of durable material to match the existing façade and shall be commercial grade as determined by the City. Fifty-five (55) gallon metal barrels shall not be an acceptable receptacle type.

Sidewalk Sales

Sidewalk sales may be permitted, in conformance with the Code, as it relates to public safety, visibility, and public access. A minimum width of five (5) of sidewalk must be retained for open access for the general use of the public and to meet the requirements of the Americans with Disabilities Act.

- Permittee may put out tables or clothing racks on the sidewalk directly in front of his/her storefront.
- All tables must be skirted.
- Tables and racks may not block the permittee's store entrance, nor may they extend beyond the width of the permittee's storefront.
- Tables and racks may not narrow the pedestrian path to less than five (5) feet in width.
- The existing condition of all sidewalks for which the applicant is responsible for under City Code is acceptable and does not require repair.
- Sidewalk sale permits shall be granted for no greater than three (3) days in length and no more than four (4) permits total in a twelve month period.
- All tables and products must be removed from the sidewalk at least 30 minutes before the closing time of the business and may be placed on the sidewalk no sooner than 30 minutes before the store's opening.
- Absolutely no products or materials may be left on the sidewalk overnight.
- No products that are offensive or inappropriate, as determined by the Board or Planning, may be displayed in any permitted sale on the public sidewalk.
- Insurance:
 - Proof of insurance documenting the existence of a one million dollar comprehensive liability policy, with policy limits of no less than one million dollars, naming the City of St. Joseph as an additional named insured shall be provided.
 - The Permittee agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss of, or damage to, property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind whatsoever in any way resulting from or arising out of the acts or omissions of officers, employees and volunteers of the Permittee connected with the Permittee's operations, regardless of whether such acts or omissions were caused in part by the CITY. At its own cost and expense, Permittee will defend and protect the CITY from and against any and all such claims or demands and will defend all suits arising therefrom.

Daily Retail Use

Revocable permits for the extension of retail display areas, located on a public sidewalk are permitted subject to:

- ✓ Determination by the Director or his designee that the operation will not impede pedestrian or transit traffic. A minimum of five (5) feet of public sidewalk must be maintained to retain public access and to meet Americans with Disabilities Act requirements.
- ✓ The existing condition of all sidewalks for which the applicant is responsible for under City Code is acceptable and does not require repair.
- ✓ The requirement that the operation shall meet all City and State requirements for licensing and operation. The sale of alcohol is expressly prohibited.
- ✓ All elements installed and maintained by the permittee shall be subject to design and maintenance review by the Board and Director or his designee.
- ✓ Permittee may put out tables or clothing racks on the sidewalk directly in front of his/her storefront.
- ✓ All tables must be skirted.
- ✓ Tables and racks may not block the permittee's store entrance, nor may they extend beyond the width of the permittee's storefront.
- ✓ Tables and racks may not narrow the pedestrian path to less than five (5) feet in width.
- ✓ All tables and products must be removed from the sidewalk at least 30 minutes before the end of normal business hours of the business and may be placed on the sidewalk no sooner than 30 minutes before the store's normal business hours.
- ✓ Absolutely no products or materials may be left on the sidewalk overnight.
- ✓ No products that are offensive or inappropriate may be displayed in any permitted sale on the public sidewalk.
- ✓ Display of products is limited to the normal business operating days and hours posted.

Additional conditions:

- ✓ The permittee is responsible for the removal of any rust, grease, cigarette butts, liquids or dirt left on the sidewalk, or replacement of pavement due to rust or other materials damaging the surface condition or appearance of the pavement.
- ✓ All fixtures, furniture and property that are contained within the permitted area shall stay permitted area only.
- ✓ It is the responsibility of the permittee to ensure that all trash and litter are promptly removed from the permitted area.
- ✓ Permittee is not allowed to use Downtown trash receptacles for disposal of trash within the permitted area.
- ✓ At the conclusion of snow events, the permittee is responsible for the removal of all snow accumulated within the permitted area as well as the public sidewalk area adjacent to the business, as set forth in City Code.
- ✓ The permit shall be an annual permit, effective for twelve (months) after issuance.
- ✓ Insurance:
 - ✓ Proof of insurance documenting the existence of a one million dollar comprehensive liability policy, with policy limits of no less than one million dollars, naming the City of St. Joseph as an additional named insured shall be provided.

- ✓ The Permittee agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss of, or damage to, property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind whatsoever in any way resulting from or arising out of the acts or omissions of officers, employees and volunteers of the Permittee connected with the Permittee's operations, regardless of whether such acts or omissions were caused in part by the CITY. At its own cost and expense, Permittee will defend and protect the CITY from and against any and all such claims or demands and will defend all suits arising therefrom.

GROUND FORS SUSPENSION OR REVOCATION OF PERMITS

- Fraud, misrepresentation or false statement contained in application
- Selling unpermitted merchandise
- Selling merchandise outside normal business days or hours
- Violation of City Codes, State Laws, Federal Laws, Rules, or Board requirements
- Failure to renew permit in a timely manner or to provide and display current licenses and insurance
- Failure to conduct business in a lawful manner or conducting business in a manner unsafe to the general public or employees
- Failure to pay fees or insufficient payments
- Failure to maintain required insurance.
- Failure to comply with this Rule.