

property, article or material which in any manner obstructs or interferes with the free use of such public street, road, alley, sidewalk or public ground.

- D. For purposes of subsections A. through C. of this section, the placement of tree planters and attached benches upon sidewalks by the owner of the abutting property, or his or her agent, shall not be construed as an obstruction; provided that, the sidewalk is approximately 15 feet in width and that there remains a minimum of 5 feet between the tree planter, attached benches and the property line, and that there remains a minimum of 3 feet between the tree planter, attached benches and the back of the curb.
1. The placement and design of the tree planters, attached benches and the types of trees used shall be approved by the Public Works Director or his or her designee;
 2. The owner of the abutting property or his or her agent, who places the planters and attached benches upon the sidewalk, shall keep the trees, the tree planters and the attached benches in a neat and satisfactory manner;
 3. No advertising of any kind or nature shall be permitted to be placed upon the tree planter or attached benches.

12.12.030 Sidewalk cafés.

Notwithstanding any other provision of this chapter, the City of Rapid City may authorize businesses to operate sidewalk cafés upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A sidewalk café is an outdoor area located in the public right-of-way which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar.

- A. *Approved Sidewalk Café Area.* The area in which sidewalk cafés may be permitted is the area within the following boundary: Commencing from the intersection of East Omaha and east Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th street, north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas city Street, east to East Boulevard, and north to the point of origin.
- B. *Application Procedure.* An application for a sidewalk café permit shall be processed according to the following procedures:
1. The Director of the Community Planning & Development Services Department shall have the authority to issue sidewalk café permits.
 2. An application for a sidewalk café shall be filed with the Community Planning & Development Services Department and be approved or denied within 14 business days by the Director.

3. Application for a sidewalk café permit is limited to an individual who holds a valid business license for the establishment issued pursuant to § 5.04 of this code.
 4. Processing fees for the application shall be set by City Council by resolution.
- C. *Application Contents.* An application for a sidewalk café permit shall include the following items:
1. Property Owner and Leaseholder, as applicable, name, address and contact information;
 2. A narrative description of the type of items to be sold and written operations plan.
 3. A site plan drawn to scale on an 8 ½ inch by 11 inch sheet of paper indicating that the sidewalk café complies with Section 4 of this ordinance.
- D. *Sidewalk Café Site Requirements.* Sidewalk café permits shall comply with the following site requirements:
1. The location of the sidewalk café must be directly in front of the business operating the café and may not extend beyond the side property lines.
 2. Sidewalk cafés are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk cafés must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way.
 3. All applicable sight triangle requirements shall be met at all times by sidewalk cafes.
 4. No café elements may be located within 2 feet of the curb face.
 5. Physical barricades are required if alcoholic beverages are sold at the sidewalk café and may not exceed 4 feet in height. Elements of the sidewalk café may not be attached permanently to the sidewalk of public right-of-way. The property owner is responsible for the restoration of the sidewalk of public right-of-way if any damage is caused by the sidewalk café. Bolting a barrier to the sidewalk is not considered permanent as long as the method of bolting allows the barrier and the bolts to be readily removed.

6. Sidewalk cafés must maintain at least 1 opening for ingress and egress at all times and shall comply with the accessibility requirements of the currently adopted Building Code.
7. Umbrellas must be at least 7 feet above the sidewalk when open. Umbrellas must be designed to be secure during windy conditions.
8. Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property.
9. Lighting for sidewalk cafés is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Tabletop lighting may include candles and battery-operated fixtures.
10. Sidewalk cafés must adhere to size, design, and other applicable requirements of the City Municipal Code as adopted or amended.

E. *General Requirements.* In addition to the specific sidewalk café site requirements the following general requirements shall apply:

1. All elements associated with sidewalk cafés, including but not limited to tables, chairs, umbrellas, temporary barricades, heaters and awnings must be of quality design, workmanship, and materials to ensure safety and convenience to patrons. All such elements will be reviewed as part of the permit process.
2. Sidewalk cafés are prohibited from playing amplified music, whether live or recorded.
3. Vending machines, carts, or other objects for sale are prohibited from inclusion in a sidewalk café. Nothing in this section shall preclude the City from authorizing vending carts or similar uses outside of sidewalk cafes.
4. All services provided to sidewalk café patrons as well as all patron activity must occur within the designated sidewalk café area. No alcoholic beverages may be stored or mixed in the sidewalk café.

5. The permit holder is responsible for proper supervision of the sidewalk café in order to ensure the requirements of this section are met.
 6. Patrons and employees must wear proper attire including shoes and shirts at all times.
 7. All areas within and surrounding a sidewalk café must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.
 8. All permit holders shall be required to abide by all federal, state, and local laws.
- F. *Certificate of Insurance.* Every sidewalk café permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid 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. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
- G. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection 12.12.030(D), and the decision of the Planning Commission is appealable to the City Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for a sidewalk café permit. Appeals must be made in writing and submitted to the Planning Commission by close of business on the seventh full calendar day following action by the Planning Commission. Appeals shall be reviewed and acted upon by the Common Council within thirty (30) calendar days.
- H. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.
- I. *Permit – Revocation or suspension.*
1. The Planning Commission, in its discretion, may revoke or suspend any permit for reasons including, but not limited to the following: failure to maintain the standards required for the sidewalk café; revocation or suspension of the required business license issued under chapter 5.04; violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.
 2. The penalty of permit revocation shall continue for a period of one year from the date the revocation became effective. Once the period of

revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this section 12.20.025 (A).

3. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit.
 4. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.
 5. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.
 6. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.
 7. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.
 8. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community Planning and Development Services of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.
 9. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.
- J. *Criminal penalty.* Any person violating this Section shall be subject to the general penalty provision of § 1.12.010.