

INSTRUCTIONS FOR FILING A SIDEWALK CAFÉ PERMIT APPLICATION

PURPOSE:

Title 20 of the City of San Jose Municipal Code, Section 20.100, Part 12, provides the land use regulations for sidewalk cafés. The sidewalk café regulations as established in the Code are intended to encourage sidewalk cafés in the City of San José, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These general goals include among others the following specific purposes:

1. To encourage and promote sidewalk cafés as visual amenities which in turn intensify pedestrian activity and make the street life more attractive;
2. To preserve and enhance the character of the City of San José; and
3. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafés.

SUBMITTAL REQUIREMENTS:

In relation to these goals, the following are **required** as part of the Sidewalk Café Permit application package:

1. Pictures of the front of the building and front of immediately adjacent properties.
2. Development plan set as described below;
3. Statement of purpose describing in detail how the use will be conducted and hours of operation (particularly the hours that the area is to be occupied as a sidewalk café).
4. Signed agreement to defend, indemnify, save, and hold harmless the City and all of its officers, agents, or employees from any liability for damages resulting from any and all operations under a permit granted pursuant to Title 20, Chapter 20.100, Part 12 of the San Jose Municipal Code. The indemnification form is attached.

INSURANCE:

In addition, **prior to approval** of the Sidewalk Café Permit, the applicant will be required to provide insurance coverage for the full term of the permit or any renewal thereof. The insurance requirements are attached.

DEVELOPMENT PLAN SET:

Seven (7) sets of the development plan are required. These development plans shall set forth, show, and delineated by the following:

1. All sheets shall be of uniform size - 24" x 36" is the maximum sheet size (sheets of larger size shall require prior approval before filling the application).
2. All sheets shall be numbered in proper sequence and numbers located in the lower right hand corner of each page.
3. All sheets shall be dated and adequate space provided for dates and nature of all revisions.

The following information is needed in the plan set:

- a. Name of project and description of proposed use
- b. Partial Site Plan drawn to scale and/or include the following dimensions/notations (see attached sample):
 1. Length of tenant space frontage
 2. Width of sidewalk between building & curb
 3. Location of nearby fire hydrants, utilities, sign poles, street trees, light poles, newspaper racks, and any other obstructions in the public right-of-way with dimensions to curb and building face
 4. Location and dimension of area to be occupied by proposed sidewalk cafe
- c. Location map and Assessor's Parcel Number(s)
- d. Use of all adjacent properties
- e. For proposals outside of the DC Downtown Primary Commercial Zoning District, a full site plan is also needed. The full site plan must show dimensions noted above with the partial site plan requirements in section 'b' and the following additional dimensions of items:
 1. Overall Property
 2. All buildings
 3. Existing off-street parking, loading, and circulation areas

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4. Existing square footage of subject restaurant's dining area and total number of existing chairs
5. Square footage of and total number of chairs in proposed sidewalk cafe area
6. Use and gross square footage of all buildings which share parking with the subject restaurant.

SCHEDULE:

The processing schedule is as follows:

1. Staff reviews the application and informs the Applicant if any additional plans, data, exhibits, or additional City permits are required.

2. Environmental Impact is assessed. Projects are typically exempt.
3. Project Manager will forward proof of insurance to City's Risk Manager to verify adequate insurance coverage.
4. The application is considered by the Director of Planning who issues an administrative decision.
5. The decision of the Director of Planning may be appealed to the City Council.

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INDEMNITY AND RELEASE AGREEMENT BETWEEN CITY OF SAN JOSE AND SIDEWALK CAFE PERMITTEE

In consideration and as a condition of the City of San José issuing to Permittee that certain Sidewalk Cafe Permit No. SC _____, submitted to the Planning Divisions on _____ (the "Permit"), to allow Permittee the opportunity to use a portion of that certain sidewalk in the manner described in the Permit, Permittee does hereby agree to all of the following terms and conditions:

Section 1. Permittee agrees to and shall hold harmless, indemnify, and defend (with counsel acceptable to City) City and City's officers, employees, contractors, agents and representatives from and against any and all causes of action, claims, actions, demands, damages, losses, expenses, or liability, in law or equity, of any kind or nature whatsoever, including without limitation for injury or death to anyone or for any property damage, resulting from or related to any operation or activity undertaken pursuant to the Permit. The foregoing hold harmless and indemnity agreement shall apply in all cases regardless of whether there is any negligence or wrongdoing on the part of City, excepting only the sole and willful active misconduct of City, its officers, employees or agents.

Permittee also agrees that Permittee, its heirs, spouses, guardians, legal representatives, and assigns will not make a claim against, or sue, City of San Jose, its officers, agents or employees for injury, death or property damage arising from the negligence or other acts by the City of San Jose, its officers, agents or employees, or as a result of acts of third-parties, as a result of activities undertaken pursuant to the Permit.

Permittee hereby releases and discharges City of San Jose, its officers, agents and employees from all actions, claims or demands that Permittee, its heirs, guardians, legal representatives or assigns now have or may later have for injury, death or property damage resulting from activities undertaken pursuant to the Permit.

SECTION 2. Permittee agrees to and shall have and maintain the policies of insurance required by and in the manner required by the Permit.

SECTION 3. Permittee agrees to and shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments, including without limitation the Permit, in any activity Permittee undertakes or causes to be undertaken under or pursuant to the Permit.

SECTION 4. In the event that suit shall be brought by either party under this Agreement, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively

in the United States District Court, Northern District of California, San Jose, California.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

Senior Deputy City Attorney

By _____
Name: _____
Title: _____
Date: _____

“PERMITTEE”

_____,
an _____

By: _____
Name: _____
Title: _____
Date: _____

SIDEWALK CAFÉ INSURANCE REQUIREMENTS

Prior to commencing the sidewalk café use, each Permittee shall obtain and maintain for the duration of the permit insurance against claims for injuries to persons or damages to property which may arise from or in connection with the sidewalk use permit and related work performed by the Permittee, his/her agents, representatives, employees or subcontractors including products and completed operations of the Permittee; and premises owned, leased or used by the Permittee. The cost of such insurance shall be the responsibility of the Permittee.

INSURANCE

The Permittee shall furnish Risk Management a Certificate of Insurance showing there is in force the following valid Policy showing the Permittee as the named insured and showing:

- **Commercial General Liability:** minimum \$1,000,000 combined single limit per occurrence for bodily injury and property damage including products and completed operations;
- **Liquor Liability** (if alcohol is being sold): minimum \$1,000,000 limit per occurrence.
- **Workers' Compensation and Employers' Liability:** limit of not less than \$1,000,000 per accident as required by the Labor Code of the State of California.

ENDORSEMENTS

Commercial General Liability Certificate must be accompanied by the following endorsements:

- The City of San Jose, its officers, employees, agents and contractors are named as additional insured.
- Ten (30) day Notice of Cancellation or changes of coverage shall be given to the City of San Jose.
- The insurance is primary insurance as respects the City, its officials, employees, agents and contractors. Any other insurance the City may have shall be considered excess insurance only.
- Coverage shall state that the Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

SUBCONTRACTORS

The Permittee shall include all subcontractors as insureds under its policies or shall obtain separate Certificates of Insurance and Endorsements for each subcontractor.

VERIFICATION OF COVERAGE

Prior to commencement of the event, the Sponsor shall furnish the City with Certificates of Insurance and Endorsements. Verification of Coverage is to be sent to:

**Risk Management
Finance
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905
Tel: (408) 535-7063
Fax: (408) 292-6489**

These requirements are subject to amendment or waiver if so approved in writing by the Office of Risk Management.



CITY OF SAN JOSE

Planning, Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
 tel (408) 535-3555 fax (408) 292-6055
 Website: www.sanjoseca.gov/planning

SIDEWALK CAFÉ PERMIT APPLICATION

Application for a sidewalk café permit as provided by regulations fully set forth by Title 20, Chapter 20.100, Part 12 of the San Jose Municipal Code.

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER	SC	RECEIPT # _____	
PROPERTY LOCATION		DATE _____	
ZONING	PD ZONING FILE #	AMOUNT _____	
QUAD #	PERMIT FILE#	BY _____	

TO BE COMPLETED BY THE APPLICANT (PLEASE PRINT OR TYPE)
PROPERTY LOCATION
ASSESSOR'S PARCEL NUMBER(S)

In addition to the completed application, the following items are required:
<input type="checkbox"/> FILING FEE, PUBLIC NOTICING FEE & APPROPRIATE ENVIRONMENTAL FEE (see fee schedule)
<input type="checkbox"/> PHOTOGRAPHS of existing building, proposed location for sidewalk café, and immediately adjacent buildings.
<input type="checkbox"/> SEVEN (7) COPIES of the development plans that include: A site plan showing the location of the proposed sidewalk café on the subject property, along with adjacent properties and the public right of way adjacent to proposed café, per application instructions.
<input type="checkbox"/> SIGNED INDEMNIFICATION FORM.

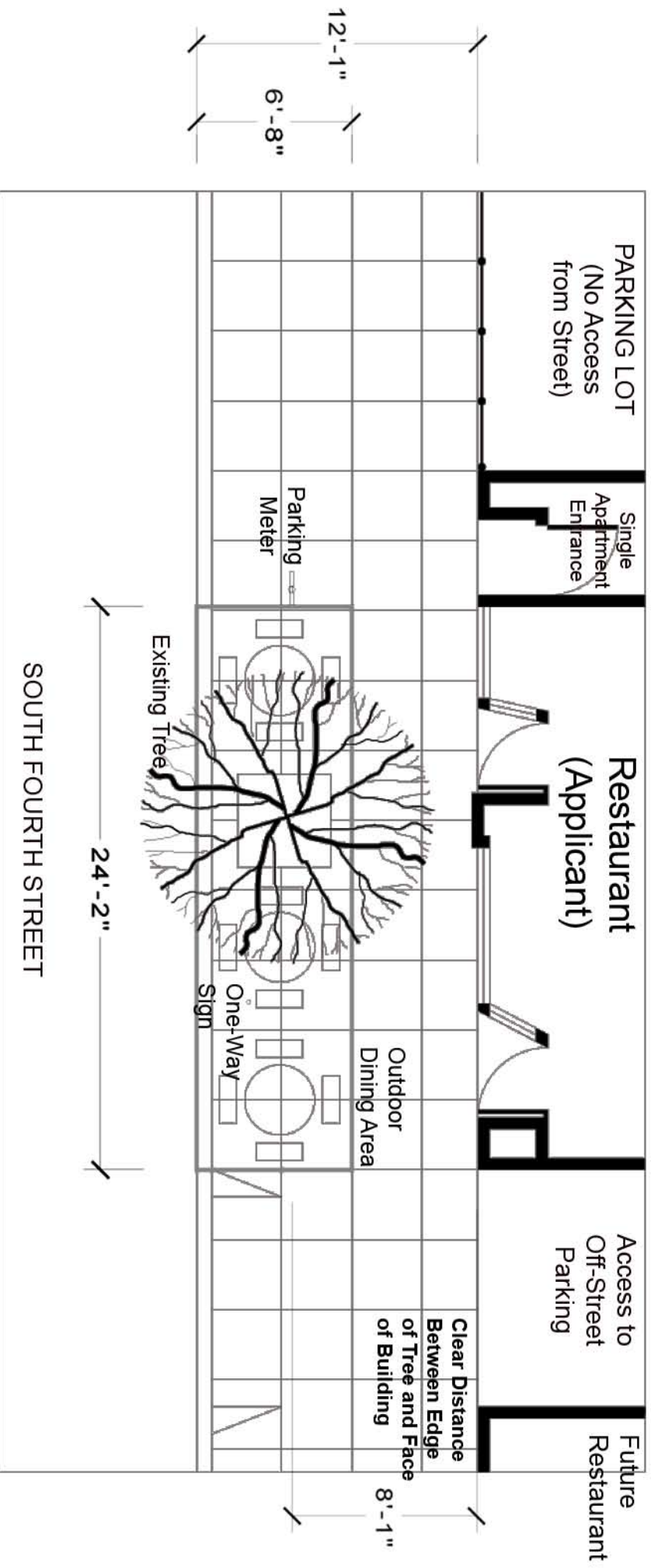
APPLICANT			
PRINT NAME OF APPLICANT BUSINESS	DAYTIME TELEPHONE # ()		
PRINT NAME OF CONTACT PERSON	FAX # ()		
ADDRESS	CITY	STATE	ZIP CODE
SIGNATURE	DATE	E-MAIL	

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Sidewalk Cafe Permit Application

Applicant Name

Applicant Address



DATE: February 29, 2006
 REVISION: