

CITY OF BELVIDERE, ILLINOIS

ORDINANCE #624H

AN ORDINANCE AMENDING SECTION 98-12(a)(3) SIDEWALK CAFÉS OF THE CITY OF BELVIDERE
MUNICIPAL CODE

PASSED AND ADOPTED

BY THE CITY COUNCIL

OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 3RD DAY OF APRIL 2023.

APPROVED BY THE

MAYOR OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 6TH DAY OF APRIL 2023.

Published in Pamphlet Form this 6th day of April 2023.

ORDINANCE #624H
AN ORDINANCE AMENDING SECTION 98-12(a)(3)
SIDEWALK CAFÉS OF THE CITY OF BELVIDERE
MUNICIPAL CODE

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Belvidere as follows:

SECTION 1: Subsection (a)(3) of Section 98-12 of the City of Belvidere Municipal Code is amended to read as set forth in the attached Exhibit A which is incorporated herein by this reference.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.


SECTION 3: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law.

Voting Aye: Frank, Freeman, McGee, Mulhall, Porter, Prather, Snow, Stevens and Fleury.

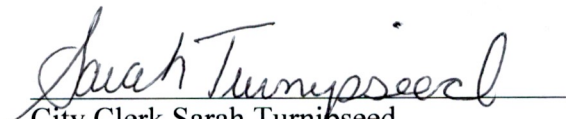
Voting Nay: Brereton.

Absent: None.

APPROVED:


Mayor

ATTEST:


City Clerk Sarah Turnipseed

(SEAL)

Passed: April 3, 2023
Approved: April 6, 2023
Published: April 6, 2023

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- (3) *Sidewalk cafés.* A sidewalk café is an outdoor area located on the sidewalk portion of the public right-of-way and which is maintained and operated by an establishment, coffeehouse, teashop or restaurant for purposes of providing seating for patrons for the consumption of food or beverages. Sidewalk cafés shall be permitted in the CB zoning district only after receiving a permit as set forth herein and pursuant to the terms of this section and the issued permit. Sidewalk cafés may also be subject to regulation by other portions of this Code, including, but not limited to the zoning ordinance (chapter 150) and may be prohibited in certain areas where prohibited by other sections of this Code. The following regulations shall apply to sidewalk cafés in the CB zoning district:
- a. Applicants for sidewalk café permits shall submit on the appropriate forms an application to the city clerk. Each application shall state: Name and address of applicant, permit and space desired, period of time, hours of operation, a description or photo of any cart, booth, structure, table, chairs or other equipment and a drawing to scale of their location, and any electrical or other services desired. All applications must be accompanied by proof of issuance of all necessary building, health or other required permits or licenses and the application fee of \$75.00 annually.
 - b. All carts or booths and other structures or equipment shall conform to the following requirements and restrictions:
 1. Meet all applicable city, state and federal regulations.
 2. Benefit the public or enhance the ambiance of the downtown.
 3. Be maintained in a high-quality state of repair.
 4. Size requirements. Activities shall not extend more than half the width of the sidewalk, and must not block or impede pedestrian traffic along the sidewalk, or ingress and egress to the business it fronts, or neighboring businesses. A sidewalk café may not extend beyond the width of the face of the business it fronts. A minimum pedestrian width of four feet shall be maintained at all times. No part of the Sidewalk Café shall be closer than three (3) feet of the vehicle right of way (curb).
 5. The city reserves the right to deny any request for a sidewalk café permit if it reasonably determines that there is insufficient sidewalk space to accommodate the request either due to the actual width of the sidewalk, volume of pedestrian traffic in the area, or the condition of the sidewalk.
 6. All sidewalk cafés shall meet the sidewalk café design guidelines which were adopted contemporaneously with this section in Ordinance Number 983G.
 7. Sidewalk cafés shall be temporary in nature capable of being disassembled and securely stored on the premises of the establishment operating the café within ten minutes.
 - c. Sidewalk cafés shall be manned by a minimum of one responsible individual over the age of 18 at all times. The individual may also be employed within the establishment but shall also maintain vigilant supervision over the sidewalk café.
 - d. Sidewalk cafés must be an extension of the existing business fronting the sidewalk space they are occupying.
 - e. During the course of business, no call out, cry, or by use of any device make any noise to call attention to the sale of any goods, wares, merchandise or service whatsoever, or in any manner obstruct or interfere with the orderly flow of pedestrian traffic. No music or other noisy distractions shall be allowed.
 - f. Sidewalk café operators must provide adequate garbage cans for disposal of any trash, and must maintain the area within and in proximity to any cart, structure or location in a neat, clean and hazard-free condition.

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- g. An establishment operating a sidewalk café shall supply the city with a certificate of insurance, reasonably acceptable to the city, covering the activity of the operator. The certificate of insurance shall name the city as an additional insured and shall be primary to any insurance carried by the city. The operator of a sidewalk café shall indemnify, defend and hold harmless the city from and against any and all loss, cost, damages or expenses to persons or property, including property of the city, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the city, any such claims or suits, provided that the city may, in its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations.
- h. Sidewalk cafés must comply with all existing restrictions of the county health department.
- i. Sidewalk café operators shall cooperate with inspection of the premises, goods, or articles at any reasonable hour by the authorized agent, officer or employee of the city or its designate.
- j. Sidewalk cafés must ascertain and at all times comply with all laws, ordinances and regulations, and all state statutes, applicable to such permitted business or premises, including, but not limited to all building, zoning, fire, health and labor regulations.
- k. Sidewalk cafés must post and maintain any and all permits delivered for use in a conspicuous place.
- l. Sidewalk cafés may operate between the hours of 7:00 a.m. and 9:00 p.m. daily. Vendor permits shall be valid for the period of April 1, through November 1 annually.
- m. Sidewalk café operators shall remove any cart, booth, structure, furniture or equipment from the sidewalk area at the close of business for the day. No cart, booth, structure, furniture or equipment shall be permitted to remain on the public sidewalk overnight. All carts, booths, structures, furniture or equipment shall be of a type and maintained so as to enhance the aesthetic and overall appearance of the downtown. The city reserves the right to determine the acceptability of carts, booths, structures, furniture or equipment for use on public sidewalks.
- n. Sidewalk café operators shall not serve alcoholic beverages unless the underlying establishment has appropriate valid liquor licenses issued by the State of Illinois and the city allowing consumption of alcohol on premises and have received specific authority to serve alcoholic beverages as a part of their sidewalk café permit. When applying for a sidewalk café permit the applicant shall specifically state whether they are seeking permission to serve alcoholic beverages. The following regulations and policies, in addition to all other requirements, shall apply to all sidewalk cafés serving alcohol:
1. The applicant shall provide proof of liquor liability (dram shop) insurance with the application for a sidewalk café permit with the request to serve alcohol. The supplied dram shop insurance shall name the City of Belvidere as an additional insured and shall specifically note coverage for the area of the Sidewalk Café.
 2. The sidewalk café permittee has an affirmative duty to prohibit any patron from leaving the sidewalk café premises with any alcoholic liquor, except a package properly sealed, bagged and receipted pursuant to Section 633 of the Illinois Liquor Control Act.
 3. Alcohol served or consumed within a sidewalk café premises shall only be served or consumed in a plastic cup clearly identifying the retail establishment from which the alcohol was purchased.
 4. Bring your own alcohol (BYOB) is not permitted within a sidewalk café premises.
 5. The city may require, as a condition of allowing a sidewalk café, that the retail establishment engage in a beautification program requiring decorative fencing, decorative railings, decorative plantings, flower boxes etc. as a part of the city's objective of fostering aesthetically pleasing streets and boulevards.

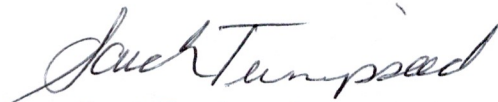
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6. Any sidewalk café with specific permission to serve alcoholic beverages shall enclose the permitted area from the remainder of the public way, and be maintained in accordance with a plan reasonably approved by the city. The boundary shall be no less than 24 inches or more than 36 inches in height. The boundary shall be durable so that it shall not collapse or fall over due to wind or incidental contact with patrons or pedestrians. The boundary may have movable sections to aid in public access to seating as long as the boundary complies with the submitted plan. The boundary shall be maintained in place during operating hours. No boundary may be stabilized by bolting to the sidewalk. The boundary shall be designed to leave at least four feet of clear and unobstructed sidewalk space to allow for pedestrian passage. Clearance between sidewalk café and all public way encumbrances shall also be at least six feet. Non-permissible enclosure of city property, within the boundaries of the sidewalk café, shall include, but is not limited to, parking meters, fire hydrants, and utility or signal control boxes. These types of items can be identified as items which must be accessible to the public or to the city for emergency services.
 7. The City may deny any request for specific authority to serve alcohol as a part of a sidewalk café, if:
 - a) the Mayor, or the Mayor's designee, reasonably determine that service of alcohol at a specific sidewalk café would detrimentally affect neighboring residential property, including, but not limited to, upper-level apartments located above commercial spaces.
 - b) the Mayor, or the Mayor's designee, determines, based upon articulable facts, that prior violations by the licensee of this Section, Chapter 10 of the City of Belvidere Municipal Code, Article II of Chapter 54 of the City of Belvidere Municipal Code, or the State of Illinois Liquor Control Act make it likely that the underlying liquor licensee would allow violations of this Section if alcohol sales were allowed as a part of a sidewalk café permit.
 8. The Mayor, or the Mayor's designee may summarily revoke specific permission to sell alcohol as a part of a sidewalk café if the Mayor or the Mayor's designee reasonably determines that violations of the provisions set forth in subsection 7(b) above have occurred. The revocation of specific permission to serve alcoholic beverages as a part of a sidewalk café shall not be deemed revocation of a liquor license pursuant to Chapter 10 of the City of Belvidere Municipal Code.
 19. In the event a licensee's underlying liquor license is suspended or revoked, the specific permission to sever alcoholic beverages as a part of a sidewalk café shall be automatically suspended or revoked without further action or notice.
- o. The sidewalk café shall be operated in conformance with the approved plan of operation submitted with the application. Any change in operation or location other than de minimis modifications requires the prior approval of the city.

AFFIDVAIT

STATE OF ILLINOIS)
)
COUNTY OF BOONE)

Sarah Turnipseed, first being duly sworn on oath deposes and says as follows:

By authority of the City Council of the City of Belvidere, Illinois, I published Ordinance #624H of the City of Belvidere, Illinois, in pamphlet form on April 6, 2023, and as a convenience for the public; I posted the pamphlet form of Ordinance #624H on the bulletin board in the lobby of Belvidere City Hall at 401 Whitney Blvd., Belvidere, Illinois; said location being readily accessible to the public during business hours of the City Clerk's office.



Sarah Turnipseed
City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
this 6th day of April, 2023.



Notary Public

