



**THE CITY COUNCIL OF WATERLOO, IOWA
WORK SESSION TO BE HELD AT
Harold E. Getty Council Chambers
Tuesday, January 2, 2024
4:30 PM**

RULES FOR WORK SESSION PUBLIC COMMENT

Iowa Code Chapter 21 gives the public the right to attend council meetings, but it does not require cities to allow public participation except during public hearings. The city council shall not receive any public comment during a work session.

Roll Call

Agenda, as proposed or amended

Approval of Minutes of December 18, 2023, as proposed.

4:30 p.m. An ordinance removing the term 'At Large' from Chapter 5-1B-9 Dog Attacks.

Submitted by: Sheila Steffen, Public Works Coordinator

4:40 p.m. Discussion a sidewalk cafe and parklet ordinance.

Submitted by: John Chiles, Ward 1 Council member

4:55 p.m. Discussion of an ordinance amending Section 1-4-11, Method of Keeping Minutes.

Submitted by: Kelley Felchle, City Clerk

ADJOURNMENT

Kelley Felchle
City Clerk

December 18, 2023

COUNCIL WORK SESSION

Harold E. Getty Council Chambers

4:50 p.m.

Roll Call.

Members present: Mayor Quentin Hart in the Chair. Mr. Boesen, Mr. Nichols, Ms. Creighton-Smith, Mr. Grieder, Ms. Wilder and Mr. Feuss. Ms. Wilder joined by Zoom and Mr. Chiles was absent.

Agenda, as proposed or amended.

Feuss/Grieder

that the agenda as proposed, be approved. Voice vote-Ayes: Six. Motion carried.

Approval of Minutes of December 4, 2023, as presented.

Feuss/Grieder

that the minutes of December 4, 2023, as proposed, be approved. Voice vote-Ayes: Six. Motion carried.

Discussion of a Sister City Partnership with St. Thomas, Jamaica.

Abraham Funchess, Executive Director of Human Rights, provided an overview of starting a sister city relationship with St. Thomas, Jamaica. The conversation started with a gentleman named Norman Grant who had been instrumental in helping Jamaican immigrants here in the Cedar Valley. A meeting was initially held with the Mayor of Cedar Falls and eventually brought before the Mayor of Waterloo to present the idea of a sister city relationship. He stated that it was felt that the idea of celebrating Jamaica Day would go over very well in Waterloo, in part due to our demographics. But in the larger context of pan-Africanism, it is particularly appealing to the Human Rights Commission, and he believes it would also be appealing to a larger swath of Waterloo as well.

Mayor Hart shared that Mr. Norman Grant, along with the Western Home, received the Diversity and Inclusion Award at the Grow Cedar Valley Conference and that part of the reason is not just because people are living here, but also the impact it has had on the overall commerce within the Cedar Valley. He has been able to supply workers and college students trained to take over in a number of capacities at the Western Home, potential partnerships with the Waterloo Community Schools, work at the Themepark and Waterpark and other areas of opportunity to help meet some of the workforce demands we have in the community. He stated that this is really about the culture and the economic impact this will have on both of our communities.

Abraham Funchess shared that International Human Rights Day is celebrated every December 10 and, though it has passed, he wanted to make sure we recognize it.

Ms. Wilder commented that she had heard a lot of great things about Mr. Norman Grant's work and believes our partnership with him will be incredible.

ADJOURNMENT

Feuss/Nichols

that the council adjourn at 4:59 p.m. Voice vote-Ayes: Six. Motion carried.

Kelley Felchle
City Clerk



COMMUNICATION TO THE WATERLOO CITY COUNCIL

NAME AND DEPARTMENT

Randy Bennett, Public Works Division Manager
Public Works Department

MEETING DATE

January 2, 2024

AGENDA ITEM TITLE

An ordinance removing the term 'At Large' from Chapter 5-1B-9 Dog Attacks.

RECOMMENDED COUNCIL ACTION

Request approval of ordinance amendment.

SUMMARY STATEMENT AND BACKGROUND INFORMATION

Requesting removal of the term "At Large" from ordinance Chapter 5-1B-9 Dog Attacks.

NEIGHBORHOOD IMPACT

DATA, ANALYSIS, AND STRATEGIES

IMPLEMENTATION, ACCOUNTABILITY, AND COMMUNICATION

COMMUNITY ENGAGEMENT METHODS

SOURCE OF EXPENDITURES

ALTERNATIVE ACTION

LEGAL DESCRIPTION

ATTACHMENTS

None

TITLE 3 – BUSINESS AND LICENSE REGULATIONS
CHAPTER 4 – BUSINESSES RELATING TO SALES
ARTICLE G – PARKLET

- 3-4H-1: DEFINITIONS:
- 3-4H-2: PURPOSE:
- 3-4H-3: RIGHT TO LIMIT:
- 3-4H-4: PERMIT REQUIRED:
- 3-4H-5: WHERE AND WHEN PERMISSIBLE:
- 3-4H-6: APPLICATION FOR PERMIT:
- 3-4H-7: ISSUANCE OF PERMIT:
- 3-4H-8: TRANSFERABILITY OF PERMIT:
- 3-4H-9: INSURANCE:
- 3-4H-10: LITTER:
- 3-4H-11: RESTRICTIONS ON SMOKING AND ALCOHOLIC BEVERAGES:
- 3-4H-12: PARKLET REGULATIONS FOR OPERATION AND CONSTRUCTION:
- 3-4H-13: TAXES, ASSESSMENTS; OPERATING COSTS AND UTILITY CHARGES:
- 3-4H-14: APPEAL:
- 3-4H-15: DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:
- 3-4H-16: REMOVAL OF PARKLET:
- 3-4H-17: PENALTY:
- 3-4H-18: SEVERABILITY:

3-4H-1: DEFINITIONS:
A. Design Review: Materials used to define the perimeter of a parklet shall be subject to the approval of the Engineering Department. All other materials used in the construction of a parklet located in the downtown district shall be subject to the approval of the Main Street Waterloo Redevelopment Authority, in accordance with Section 2-2-3 of this Code.

B. Downtown Entertainment District: The Downtown Entertainment District shall be on East 4th Street and West 4th Street from Franklin Street to Washington Street.

C. ~~Licensed Food~~ Establishment:
A brick and mortar building located in the Central Business District selling food to customers and is required by the State of Iowa to hold a food establishment license, or a bar operating from a brick and mortar building in the Central Business District and is required by the State of Iowa to have a liquor license.
~~A business selling food to customers from a brick and mortar establishment in the Downtown Entertainment District and required by the State of Iowa to have a food establishment license.~~

D. Operator: The owner and/or employees of the permitted business responsible for operating and maintaining the parklet.

E. Parklet: The platform installed by a permittee over public parking spaces within the public right-of-way adjacent to a sidewalk area upon which tables, chairs, umbrellas, landscaping, benches and other accessory components and amenities may be placed. The term parklet, when permitted, also includes the ongoing obligation of maintenance, repair, operation and removal of the parklet improvements in accordance with the terms and conditions of this Article. Parklets shall be undertaken at the sole cost and expense of the permittee.

3-4H-2: PURPOSE:
This Article shall set forth regulations for any establishment operating a parklet in the Downtown Entertainment District. The establishment of a program for the siting, installation, construction, operation, use, maintenance and repair of parklets is designed and intended to facilitate the conversion of on-street parking spaces into an extension of services for licensed food establishments. Parklets are located within a public right-of-way, and may include tables, seating, umbrellas, landscaping, food and beverage service and sun shade, all of which are intended to enhance the quality of the pedestrian experience. The program for parklets is designed to provide a path for merchants to take individual action in the development and beautification of the city's public realm and are further intended as an aesthetic enhancement to the streetscape.

3-4H-3: RIGHT TO LIMIT:

The city council shall, by resolution, have the right to limit the number of parklets allowed on one side of one city block in the Downtown Entertainment District. ~~An licensed-food~~ establishment may apply for a parklet permit and a sidewalk cafe permit. The city reserves the right to limit or prohibit such combination for the purpose of preserving public health and safety.

3-4H-4: PERMIT REQUIRED:

A. It shall be unlawful for any person to erect or operate a parklet within the city without first obtaining a permit from the city, and any other state or county permits, certifications, and licenses that may be required to operate ~~an licensed-food~~ establishment on a parklet. A parklet, permitted and operated in accordance with this chapter shall not be considered an obstruction of a public right-of-way.

B. A permit for a parklet shall be issued only to the permittee who shall include, jointly and severally, (i) operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is located.

3-4H-5: WHERE AND WHEN PERMISSIBLE:

A parklet regulated under this Article shall be permitted as follows:

1. In the downtown entertainment district on East 4th Street and West 4th Street, bounded by Franklin Street and Washington Street.

2. Adjacent to the brick and mortar ~~licensed food service~~ establishment.

3. Where the parklet's operation is primary to and a part of the operation of its adjacent ~~licensed food~~ establishment.

~~4. Where a brick and mortar establishment is a licensed food establishment. Such establishment may also hold a State of Iowa Alcoholic Beverages license. An establishment with only a State of Iowa Alcoholic Beverages license shall be prohibited from obtaining a parklet permit.~~

~~54.~~ Parklets shall be sited along the curb line on streets where on-street parking spaces exist.

~~65.~~ Parklets shall not block access to public utilities, hydrants, sidewalks, alleys or driveways.

~~76. Provided the area in which t~~The parklet ~~is located shall~~ extends no farther than ten (10) feet past the limit of the street frontage of the ~~licensed food~~ establishment.

3-4H-6: APPLICATION FOR PERMIT:

A. Contents of Application: Applicants for a permit under this Article shall complete and submit to the city clerk an application, fees, and supporting documentation, all of which shall include but not be limited to the following information:

1. The name, phone number, and email address of the applicant.
2. The name, address, phone number, and email address of the business.
3. Proof of valid food service license(s) from the state and/or county health departments if selling/handling food and/or beverages for human consumption.
4. A certificate of insurance and indemnification agreement as required in Section 3-4H-9 of this Article.
5. A drawing showing the layout and dimensions of the proposed parklet and adjacent property, including the structures to be located on the parklet, proposed location, size and number of tables, seating, umbrellas, location of entries, location of trees, parking meters, street signs, parking spaces utilized, vehicular travel lanes, sidewalk benches, trash receptacles, landscaping, utility boxes, fire hydrants, manholes, public utility valves or

covers, storm sewer grates, poles, and other sidewalk obstruction either existing or proposed within twenty-five (25) feet of the parklet.

6. Photographs, drawings or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects relating to the parklet.

7. A plan for the maintenance and cleaning of the parklet license area; the tables and chairs located within the parklet area; and the disposal of any trash or debris generated from the operation and use of the parklet by the general public and patrons of the permittee.

8. Any permits or approvals required from any other governmental agency necessary to operate the parklet.

9. A non-refundable application fee of fifty dollars (\$50.00).

B. Filing: No application shall be accepted for filing and processing unless it conforms to the requirements of this Article. This includes a complete and true application, all of the required materials and information prescribed, and the appropriate application fee.

~~C. Timely Filing: An application shall be filed with the city clerk's office no later than February 1st of each year. The city reserves the right to reject any application not filed in a timely manner. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application or for failing to timely file the application.~~

C. Filing – New Application: An establishment filing an application for the first time may do so at any time during the year. Fees for such application and permit shall not be prorated. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application.

D. Filing – Renewal Applications and Timely Filing: A renewal application must be filed with the city clerk's office no later than February 1st of each year. The city reserves the right to reject any application not filed in a timely manner. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application or for failing to timely file the application.

~~D.E.~~ Application Review: Upon receipt of the complete application as required by this Article, the city clerk shall forward the application to the Fire Department, Building Department, Planning, and Zoning Department, Engineering Department, and Police Department for review. If the applicant does not hold a liquor license, the police department is not required to review the application. Following approval by city departments, the city clerk shall forward the application to the Main Street Design Review Board for review and approval or denial.

3-4H-7: ISSUANCE OF PERMIT:

A. If the city clerk finds the application is complete, fully executed, and made in conformance with Section 3-4H-6 of this Article, the application fee and all outstanding fees owed to the city are paid, and upon approval by all parties listed in Section 3-4H-6 of this Article, the city clerk shall inform the applicant that a permit may be issued subject to payment of a permit fee of two hundred dollars (\$200.00).

B. Term of Permit: A permit shall be valid from April 1 through November 1.

3-4H-8: TRANSFERABILITY OF PERMIT:

A permit issued under the provisions of this Article is not transferable in any situation to any person and is only applicable to the person filing the application.

3-4H-9: INSURANCE:

A. All parklets shall provide proof of and maintain current commercial general liability insurance having a minimum combined single limit of one million dollars (\$1,000,000.00). Workers' Compensation coverage of no less than the statutory requirement. A certificate of insurance shall be delivered to the city clerk prior to the issuance of a permit. The certificate of insurance shall list the City of Waterloo and its elected and appointed officials, officers, employees, and agents as named additional insureds on a primary and non-contributory basis, including a waiver of subrogation in favor of city, against any liabilities that may arise in connection with the operation of the mobile food business.

B. Apart from and separate from any insurance required under this section, the permit holder shall agree in writing to indemnify, defend, and hold the City of Waterloo and its assignees and employees harmless from all losses, damages, injuries, claims, demands, and expenses in any manner resulting from or arising out of the permitted operation of the parklet.

3-4H-10: LITTER:

The permittee shall be responsible for keeping the parklet area free of trash or litter, and collecting and removing daily all garbage, litter, and other debris in its immediate vicinity.

3-4H-11: RESTRICTIONS ON SMOKING AND ALCOHOLIC BEVERAGES:

Permittees shall enforce the following prohibitions or restrictions:

1. Smoking tobacco or using an electronic smoking device at a parklet is prohibited.
2. Alcoholic beverages may be served at parklets pursuant to a valid liquor control license, and in accordance with state and local alcoholic beverage control laws, provided the following additional requirements are met:
 - a. Patron entrance to and egress from the parklet shall be controlled by staff of the establishment, who shall continuously monitor the parklet during times alcoholic beverages are being sold or consumed, and
 - b. No alcoholic beverages may be sold or served to patrons later than ~~10:00 p.m.~~2:00 a.m.
 - c. Patrons shall not be permitted to consume any beverages within the parklet that were not purchased on the premises, and
 - d. The establishment shall ensure that no patron loiters in the clear path of pedestrian travel while in possession of an alcoholic beverage. Patrons may be in possession of an alcoholic beverage in the clear path of pedestrian travel only for the purpose of moving to the parklet from the adjoining indoor restaurant or vice versa.

3-4H-12: PARKLET REGULATIONS FOR OPERATION AND CONSTRUCTION:

A. City departments listed in Section 3-4H-6(D) shall have the authority to develop policies and standard requirements for parklet design and construction in addition to regulations listed in this Section, which shall be subject to approval by city council resolution.

B. The following regulations for operation and construction shall apply to all parklets:

1. Date and Time of Operation: A parklet may only operate from April 1 to November 1. Parklets shall not operate or allow patrons to congregate in the parklet between the hours of ~~10:00 p.m.~~2:00 a.m. and 6:00 a.m. daily. If a parklet is not in operation for the entire period, the annual permit fee shall not be prorated.
2. Location: All parklets may be located on a parking stall on public right-of-way in the downtown entertainment district. Such area shall be immediately adjacent to the ~~licensed food~~ establishment of which it is apart and, if the ~~licensed food~~ establishment also has a sidewalk café, provide (5) feet of public right-of-way available for pedestrian traffic. Parklets shall be adjacent to a ~~licensed food~~ establishment.
3. Parklets shall have a three sided barrier. This barrier shall provide an aesthetically pleasing separation from surrounding uses as determined by standards set out in this ordinance and by requirements established by the Main Street Design Review Board.
4. Parklets shall be accessible from the permitted premises to which it is attached.
5. Occupancy: A parklet shall not exceed one person per ten (10) square feet of floor area accessible to the public.

6. A Parklet shall be adequately lighted by use of non-obtrusive lighting, which shall not be directed toward any residential use, or the public street.
7. Amplified sound equipment in a Parklet shall not be permitted. Compliance with the city noise ordinance shall be required.
8. Parklets shall comply with appropriate building, housing, and fire codes and with all other applicable federal, state, and city statutes.
9. Inspections: The city shall inspect parklets at least once per year outside of the application process at the same time inspection of the adjacent permitted establishment occurs. The city may, at its discretion, inspect a parklet at any other time as deemed necessary to ensure compliance with city ordinances.
10. Approval or disapproval of a parklet application shall be at the discretion of the city clerk. Such discretion shall be exercised with due regard to public health, safety and welfare considerations. City departments may impose additional requirements in particular situations, when it is deemed to be necessary to ensure compliance with city ordinances.
11. Only responsible businesses will be allowed to renew. The city will determine if the business responsibly managed its parklet by the previous year's performance, calls for service, and compliance with city codes.
12. Any change to the perimeter of the parklet is subject to the approval of city departments listed in the application process and Main Street Design Review Board.
13. Permittee shall preserve and protect all existing trees and plantings in the public right-of-way within the immediate vicinity of the parklet. Permittee shall be required to replace or mitigate entirely at permittee's expense, any damage to the public right-of-way or private property as a result of the parklet construction, installation, placement, operation, maintenance or removal.
14. Awnings, umbrellas and other decorative material accessory to the parklet shall be fire retardant, pressure treated or manufactured of fire resistive material.
15. Tables, chairs, umbrellas and any objects accessory to the parklet shall be maintained in a clean and attractive appearance, shall be in good state of repair at all times and shall be maintained in accordance with the approved maintenance plan and shall keep the landscaping and plants in a good, healthy and vibrant condition.
16. The parklet shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day in compliance with the approved maintenance plan.
17. No tables or chairs will be permitted within ten (10) feet of a pedestrian crosswalk. There shall be a distance separation of no less than two (2) feet separating the structure of the parklet and the adjacent travel lane.
18. The city may require the permittee to provide additional services beneath the parklet platform, including but not limited to pest abatement service and clearing of catch basin grates to allow proper storm drainage.
19. No portion of any object placed within the parklet boundary shall extend into an adjacent pedestrian sidewalk, without first obtaining approval from the city.
20. If the parklet includes planters, the planters shall be placed within the parklet boundaries but shall be secured to ensure that they do not move onto the adjacent sidewalk. No planters with wheels are to be permitted.
21. Tables, seating, umbrellas and any other items accessory to the parklet shall be of a quality design and lasting materials, and workmanship both to ensure the safety and convenience of the users and to be compatible with the uses in the immediate vicinity of the parklet.

22. Reflective elements are required at the outside corners of all parklets. Soft-hit posts are a standard solution deployed at the outside edges; however, the city shall consider and may require additional safety measures including flexible bollards, reflective elements or other solutions incorporated into the parklet design if warranted.

23. For parklets in parallel parking spaces, a three-foot wheel stop or other appropriate "stops" such as planters shall be installed one (1) foot from the curb at the edge of the front and back of parking spaces. When parklets are installed on a portion of a parallel parking space, wheel stops or other appropriate "stops" such as planters should be set back four (4) feet from the parklet.

24. Traffic safety devices, including but not limited to flexible bollards may be required depending on existing conditions and site layout to properly protect the parklet and its patrons.

25. Parklets shall not be permitted in front of a fire hydrant, over a manhole, public utility valve or cover. A clearance of ~~fifteen-three~~ (153) feet in either direction of the hydrant along the length of the street shall separate parklets from fire hydrants.

26. Parklets shall be required to have soft-hit posts, wheel stops and barriers on all edges of the parklet platform.

27. The parklet shall be constructed and installed to conform to all applicable federal, state, or county laws or regulations.

28. The permittee shall have the continuing obligation of compliance with the Americans with Disabilities Act, as same may be amended from time to time.

29. The permittee shall, at its sole cost and expense, construct, operate, maintain, repair and remove the parklet and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the parklet to install, construct, operate, use, maintain, and repair in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, city engineering standards, environmental requirements and other similar regulatory requirements.

3-4H-13: TAXES, ASSESSMENTS; OPERATING COSTS AND UTILITY CHARGES:

The permittee shall pay or cause to be paid all applicable real estate taxes, assessments and other similar payments, usual or unusual, extraordinary as well as ordinary, which shall during the term be imposed upon, become due and payable, or become a lien upon the parklet or any part thereof, but specifically limited to such taxes or assessments which accrue after the effective date of the parklet permit. Permittee shall, upon request, exhibit a receipt for such payments to the City. Further, permittee shall pay or cause to be paid all operating expenses, such as those for light, electricity, charges for water, and all costs attributable to the maintenance and operation of all parklet improvements to be erected within the license area for the parklet or landscaping related thereto.

3-4H-14: APPEAL:

A person may appeal a decision of the city clerk to deny an application by filing a written appeal to the office of the city clerk within fourteen (14) days of the date of the decision. An administrative fee of fifty dollars (\$50.00) shall be paid at the time the appeal is filed. Failure to file the appeal and pay the administrative fee shall constitute a waiver of the right to a hearing, and the denial shall thereupon become final. If the written appeal and administrative fee are filed in conformance with this section, a hearing shall be scheduled and conducted pursuant to 3-4H-15(B).

3-4H-15: DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:

A. Any permit issued under the provisions of this Article may be denied, suspended, or revoked by the city clerk as follows:

1. Violation of any provision of this Article, any other section of this Code, or has otherwise conducted business in an unlawful manner.

2. Fraud, misrepresentation, or false statements made in securing a permit and made in the course of the applicant's business.
3. Failure to cooperate with all reasonable requests of any official of the city.
4. A permittee or employee of a permittee selling any unwholesome or tainted food or food products.
5. Failure of any permittee to maintain the appropriate insurance, or county, state, and federal licenses and permits, during the term of the permit.
7. Failure to pay on time any fee owed to the city.
8. Being deemed a chronic nuisance property pursuant to Title 5, Chapter 5 of this Code.
9. Failing to pass an inspection or remedy inspection violations in a timely manner.

B. Upon receipt of information alleging grounds exist to deny, suspend, or revoke a parklet permit, or a written appeal and administrative fee have been received at the office of the city clerk, the city clerk shall cause a notice to be sent by ordinary mail to the applicant or permittee at the address noted in the application. Said notice shall state that a hearing has been set before the city council not more than thirty (30) days from the date of the notice. The notice shall include the reason and grounds for the hearing, the date and time of the hearing, and the place where the hearing will be conducted. Upon such hearing, if the city council determines that one or more of such grounds do exist, it may suspend or revoke an existing permit or uphold a decision to deny a permit. A suspension shall constitute a minimum period of fourteen (14) calendar days from the date of the hearing, during which period the permittee may not conduct any business. In the event such permit is revoked, no parklet permit shall be issued to the permittee for one (1) subsequent parklet season following the revocation.

C. A permittee shall, within five (5) calendar days from the date of revocation, remove the parklet. If the permittee files an appeal, such parklet may remain in operation through the appeal process. If the permittee loses the appeal, the permittee shall at its own expense, remove the parklet within five (5) calendar days of the date of the denial of the appeal.

D. In the event of revocation, the city clerk shall notify the Iowa Beer and Liquor Control Department. The permit holder may appeal the revocation to the Iowa Beer and Liquor Control Department Hearing board, pursuant to Section 123.32, Code of Iowa. Revocation or suspension of authorization by the city of operation of a parklet shall not affect the licensing of the principal establishment, unless separate action to suspend or revoke that license or permit is also initiated by the City Council.

3-4H-16: REMOVAL OF PARKLET:

The city reserves the right to require a parklet to temporarily suspend or cease operation or remove the parklet for an emergency or any other reason so that the city may access public right of way. The cost to remove and clean up a parklet shall be at the permittee's expense. In the event of city infrastructure causes damage to the parklet, the city shall not be liable for such damage. Parklets shall be removed within five (5) business days of the expiration of the permit. If the permittee fails to remove the parklet when directed by the city or within fourteen (14) days after the expiration of the permit, the city may remove the parklet and the cost thereof shall be assessed against the adjacent property.

3-4H-17: PENALTY:

Any person who violates any of the provisions of this Article shall be guilty of a municipal infraction and fined as provided in subsection 1-3-2 of this Code.

3-4H-18: SEVERABILITY:

If any provision or clause of this Article or its application to any person or in any circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Article, which can be given effect without the invalid provision, or application, and to this end, the provisions of this Article shall be severable.

TITLE 3 – BUSINESS AND LICENSE REGULATIONS
CHAPTER 4 – BUSINESSES RELATING TO SALES
ARTICLE G – SIDEWALK CAFÉ

3-4G-1: DEFINITIONS:

3-4G-2: PURPOSE:

3-4G-3: RIGHT TO LIMIT:

3-4G-4: PERMIT REQUIRED:

3-4G-5: WHERE AND WHEN PERMISSIBLE:

3-4G-6: APPLICATION FOR PERMIT:

3-4G-7: ISSUANCE OF PERMIT:

3-4G-8: TRANSFERABILITY OF PERMIT:

3-4G-9: INSURANCE:

3-4G-10: LITTER:

3-4G-11: RESTRICTIONS ON SMOKING AND ALCOHOLIC BEVERAGES:

3-4G-12: SIDEWALK CAFÉ REGULATIONS FOR OPERATION AND CONSTRUCTION:

3-4G-13: APPEAL:

3-4G-14: DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:

3-4G-15: REMOVAL OF SIDEWALK CAFÉ:

3-4G-16: PENALTY:

3-4G-17: SEVERABILITY:

~~3-4G-17: EFFECTIVE DATE:~~

3-4G-1: DEFINITIONS:

A. Central Business District: The Central Business District shall include all properties in downtown Waterloo as described in Section 2-2-1 of this Code.

B. Design Review: Materials used to define the perimeter of a sidewalk café in the Central Business District shall be subject to the approval of the Engineering Department and the Main Street Waterloo Redevelopment Authority, in accordance with Section 2-2-3 of this Code.

C. Establishment: A brick and mortar building located in the Central Business District selling food to customers and is required by the State of Iowa to hold a food establishment license, or a bar operating from a brick and mortar building in the Central Business District and is required by the State of Iowa to have a liquor license.

D. Operator: The owner and/or employees of the establishment responsible for operating and maintaining the sidewalk café.

E. Sidewalk Café: Any group of tables and/or chairs, and its authorized decorative and accessory devices and barriers, situated and maintained upon the public sidewalk for use in connection with operating an establishment. The sidewalk café shall be attached and adjacent to the establishment. Sidewalk cafes shall be constructed, maintained, and removed at the sole cost and expense of the permittee.

3-4G-2: PURPOSE:

This Article shall set forth regulations for any establishment operating a sidewalk café in the Central Business District.

3-4G-3: RIGHT TO LIMIT:

The city council may, by resolution limit the number of sidewalk cafes allowed in the Central Business District.

3-4G-4: PERMIT REQUIRED:

A. It shall be unlawful for any person to erect or operate a sidewalk café within the city without first obtaining a permit from the city, and any other state or county permits, certifications, and licenses that may be required to operate an establishment on a sidewalk café. A sidewalk café, permitted and operated in accordance with this Article shall not be considered an obstruction of the public right-of-way.

B. A permit for a sidewalk café shall be issued only to the permittee who shall include, jointly and severally, (i) the operator of the establishment and (ii) the fee simple owner of the real property upon which the establishment is located.

3-4G-5: WHERE AND WHEN PERMISSIBLE:

A sidewalk cafe regulated under this Article shall be permitted as follows:

1. Is located in the Central Business District.
2. Attached and adjacent to the establishment. If not attached and adjacent to the establishment, the perimeter of the café shall be within five (5) feet of the façade of the establishment.
3. Where the sidewalk cafe's operation is primary to and a part of the operation of its adjacent establishment.
4. Provided the area in which the sidewalk café is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the establishment. The sidewalk café may extend into the frontage of a neighboring establishment with written permission from the neighboring deed holder and lessee of such deed holder. Such permission must be obtained annually and provided to the city at the time of filing an application.

3-4G-6: APPLICATION FOR PERMIT:

A. Contents of Application: Applicants for a permit under this Article shall complete and submit to the city clerk an application, fees, and supporting documentation, all of which shall include but not be limited to the following information:

1. The name, phone number, and email address of the applicant.
2. The name, address, phone number, and email address of the establishment.
3. Proof of valid food service license(s) from the state and/or county health departments if selling/handling food and/or beverages for human consumption. License number of current liquor license.
4. A certificate of insurance and indemnification agreement as required in Section 3-4G-9 of this Article.
5. A drawing showing the layout and dimensions of the proposed sidewalk café area, including size and number of tables, seating, umbrellas, location of entries to the sidewalk café. The drawing must also show the location of trees, sidewalk benches, trash receptacles, landscaping, utility boxes, fire hydrants, poles, and other sidewalk obstructions, either existing or proposed, near the sidewalk café area.
6. Photographs, drawings, or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects relating to the sidewalk café.
7. A plan for the maintenance and cleaning of the sidewalk café including the disposal of any trash or debris generated from the operation and use of the sidewalk café by patrons of the permittee.
8. A non-refundable application fee of fifty dollars (\$50.00).

B. Filing: No application shall be accepted for filing and processing unless it conforms to the requirements of this Article. This includes a complete and true application, all of the required materials and information prescribed, and the appropriate application fee.

C. Filing – New Application: An establishment filing an application for the first time may do so at any time during the year. Fees for such application and permit shall not be prorated. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application.

D. Filing – Renewal Applications and Timely Filing: ~~An A renewal~~ application must be filed with the city clerk's office no later than February 1st of each year. The city reserves the right to reject any application not filed in a timely manner. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application or for failing to timely file the application. ~~Any new business that opens after the timely filing date may submit a new application. Fees for such application and permit shall not be prorated.~~

DE. Application Review: Upon receipt of the complete application as required by this Article, the city clerk shall forward the application to the Fire Department, Building Department, Planning and Zoning Department, Engineering Department, and Police Department for review and approval or denial. If the applicant does not hold a liquor license, the police department is not required to review the application. Following approval by city departments, the city clerk shall forward the application to the Main Street Design Review Board for review and approval or denial.

3-4G-7: ISSUANCE OF PERMIT:

A. If the city clerk finds the application is complete, fully executed, made in conformance with Section 3-4G-6 of this Article, the application fee and all outstanding fees owed to the city are paid, and upon approval by all parties listed in Section 3-4G-6(D) of this Article, the city clerk shall inform the applicant that a permit may be issued subject to payment of a non-refundable permit fee of one hundred dollars (\$100.00).

B. Term of Permit: A permit shall be valid from April 1 through November 1.

C. Approval or denial of a sidewalk café application shall be at the discretion of the city clerk. Such discretion shall be exercised with due regard to public health, safety and welfare considerations. City departments may impose additional requirements in particular situations, when it is deemed to be necessary to ensure compliance with city ordinances public health, safety, or welfare.

3-4G-8: TRANSFERABILITY OF PERMIT:

A permit issued under the provisions of this Article is not transferable in any situation to any person and is only applicable to the person filing the application.

3-4G-9: INSURANCE:

A. All sidewalk cafes shall provide proof of and maintain current commercial general liability insurance having a minimum combined single limit of one million dollars (\$1,000,000.00), and Workers' Compensation coverage of no less than the statutory requirement. A certificate of insurance shall be delivered to the city clerk prior to the issuance of a permit. The certificate of insurance shall list the City of Waterloo and its elected and appointed officials, officers, employees, and agents as named additional insureds on a primary and non-contributory basis, including a waiver of subrogation in favor of city, against any liabilities that may arise in connection with the operation of the sidewalk café.

B. Apart from and separate from any insurance required under this section, the permit holder shall agree in writing to indemnify, defend, and hold the City of Waterloo and its assignees and employees harmless from all losses, damages, injuries, claims, demands, and expenses in a manner resulting from or arising out of the permitted operation of the sidewalk café.

3-4G-10: LITTER:

The permittee shall be responsible for keeping the sidewalk cafe area free of trash or litter, and collecting and removing daily all garbage, litter, and other debris in its immediate vicinity.

3-4G-11: RESTRICTIONS ON SMOKING AND ALCOHOLIC BEVERAGES:

Permittees shall enforce the following prohibitions or restrictions:

1. Smoking tobacco or using an electronic smoking device at a sidewalk café is prohibited.
2. Alcoholic beverages may be served at sidewalk cafes pursuant to a valid liquor control license, and in accordance with state and local alcoholic beverage control laws, provided the following requirements are met:

- a. Patron entrance to and egress from the sidewalk café shall be controlled by staff of the establishment, who shall monitor the sidewalk café during times alcoholic beverages are being sold or consumed, and
- b. No alcoholic beverages may be sold or served to patrons seated on the sidewalk café later than ~~11:00 p.m.~~2:00 a.m.. No person shall consume alcoholic beverages on the sidewalk café after ~~11:00 p.m.~~2:00 a.m..
- c. No person shall be permitted to consume any alcoholic beverages on the sidewalk café that were not purchased on the premises, and
- d. The permittee shall ensure that no person loiters in the clear path of pedestrian travel. Patrons may be in possession of an alcoholic beverage in the clear path of pedestrian travel only for the purpose of moving to the sidewalk café from the establishment or vice versa.

3-4G-12: SIDEWALK CAFÉ REGULATIONS FOR OPERATION AND CONSTRUCTION:

A. City departments listed in Section 3-4G-6(D) shall have the authority to develop policies and standard requirements for sidewalk café design and construction in addition to regulations listed in this Section or this Code, which shall be subject to approval by city council resolution.

B. The following regulations for operation and construction shall apply to all sidewalk cafes:

1. **Date and Time of Operation:** A sidewalk café may only operate from April 1 to November 1. Sidewalk cafes shall not operate or allow patrons to congregate in the sidewalk café between the hours of ~~11:00 p.m.~~2:00 a.m. and 6:00 a.m. daily. If a sidewalk café is not in operation for the entire permit period, the annual permit fee shall not be prorated or refunded.
2. **Location:** All sidewalk cafes may be located on public right-of-way in the Central Business District. Such area must be immediately adjacent and attached to the establishment of which it is a part and provide a minimum of (5) feet of public right-of-way available for pedestrian traffic.
3. **Perimeter:** Sidewalk Cafes shall be aesthetically separated on three sides. This separation does not need to be of solid material but must provide an aesthetically pleasing separation from surrounding uses as determined by the city and Main Street Design Review Board. No portion of any object placed within the sidewalk cafe boundary shall extend onto the adjacent pedestrian sidewalk, without first obtaining approval from the city.
4. **Accessibility:** The permittee shall have continuing obligation of compliance with the Americans with Disabilities Act, as the same may be amended from time to time. Sidewalk cafes shall be accessible from the permitted premises to which it is attached and shall not obstruct pedestrian accessibility on the public sidewalk around the sidewalk café.
5. **Occupancy:** Sidewalk café occupancy shall be determined by the fire marshal, in accordance with the International Fire Code.
6. **Lighting:** A Sidewalk Café shall be adequately lighted by use of non-obtrusive lighting, which shall not be directed toward any residential use or the public street.
7. **Amplified Sound Equipment:** Amplified sound equipment may be permitted in accordance with the city noise ordinance.
8. **Inspections:** The city may inspect sidewalk cafes at least once per year outside of the application process at the same time inspection of the adjacent permitted establishment occurs. The city may, at its discretion, inspect a sidewalk café at any other time as deemed necessary to ensure compliance with city ordinances. Sidewalk Cafes shall

comply with appropriate building, housing, and fire codes and with all other applicable state and city statutes.

9. Design Changes: Any change to the perimeter of the sidewalk café during the duration of the permit is subject to the approval of city departments and Main Street Design Review Board.
10. Damage to Public Property: Permittee shall be required to replace or mitigate entirely at permittee's expense, any damage to the public right-of-way, including existing trees, plantings, etc., resulting from construction, installation, placement, operation, maintenance or removal of the sidewalk cafe. If the permittee fails to make such repairs when directed by the city, the city may make the repairs and the cost thereof shall be assessed against the adjacent property.
11. Maintenance: Tables, chairs, umbrellas and any objects accessory to the sidewalk café shall be maintained in a clean and attractive appearance, shall be in good state of repair at all times and shall be maintained in accordance with the approved maintenance plan. The sidewalk café shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day in compliance with the approved maintenance plan.
12. Table, Chair, and Umbrella Materials: Awnings, umbrellas and other decorative material accessory to the sidewalk café shall be fire retardant, pressure treated or manufactured of fire resistive material. Tables, seating, umbrellas and any other items accessory to the sidewalk cafe shall be of a quality design and lasting materials, and workmanship both to ensure the safety and convenience of the users and to be compatible with the uses in the immediate vicinity of the sidewalk café.

~~12.13.~~ Any permanent sidewalk café fence installed prior to the effective date of this section that does not conform to the requirements of this Article shall be permitted to remain in place. If the permanent sidewalk café fencing is removed, any such replacement shall comply with this Article.

3-4G-13: APPEAL:

A decision by the city clerk to deny, suspend, or revoke a permit shall be issued by written notice delivered by regular mail or electronic mail. A person may appeal a decision of the city clerk to deny, suspend, or revoke a permit by filing a written appeal to the office of the city clerk within fourteen (14) days of the date of the decision. An administrative fee of fifty dollars (\$50.00) shall be paid at the time the appeal is filed. Failure to timely file the appeal and pay the administrative fee shall constitute a waiver of the right to a hearing, and the decision shall thereupon become final. If the written appeal and administrative fee are filed in conformance with this section, a hearing shall be scheduled and conducted pursuant to 3-4G-14(B).

3-4G-14: DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:

A. Any permit applied for or issued under the provisions of this Article may be denied, suspended, or revoked by the city clerk as follows:

1. Violation of any provision of this Article, any other section of this Code, or otherwise conducting business in an unlawful manner.
2. Fraud, misrepresentation, or false statements made in securing a permit and made in the course of the applicant's business.
3. Failure to cooperate with reasonable requests of any official of the city.
4. Failure of any permittee to maintain the appropriate insurance, or county, state, and federal licenses and permits, during the term of the permit.
5. Failure to pay on time any fee owed to the city.
6. Creating a public safety nuisance pursuant to Title 5, Chapter 5 of this code.

7. Failing to pass an inspection or remedy inspection violations in a timely manner.

B. Once a timely written appeal and administrative fee have been received at the office of the city clerk, the city clerk shall cause a notice to be sent by ordinary mail to the applicant or permittee at the address noted in the application. Said notice shall state that a hearing has been set before the city council not more than thirty (30) days from the date of the notice. The notice shall include the reason and grounds for the hearing, the date and time of the hearing, and the place where the hearing will be conducted. Upon such hearing, if the city council determines grounds do exist, it may uphold suspending revoking, or denying a permit.

C. Suspension: A suspension shall be for a minimum period of fourteen (14) calendar days. The suspension shall commence either after the appeal period has expired or the day immediately following the date of the hearing before city council, at which time the permittee shall immediately cease operation on the sidewalk cafe. During the suspension, the permittee shall not conduct any business on the sidewalk cafe.

D. Revocation: The revocation shall commence either after the appeal period has expired or the day immediately following the date of the hearing before city council, at which time the permittee shall immediately cease operation on the sidewalk cafe. If the permittee files an appeal, such sidewalk café may remain in operation through the appeal process. If the permittee loses the appeal, the permittee shall at its own expense, remove the sidewalk café within five (5) calendar days of the date of the denial of the appeal. In the event such permit is revoked, no sidewalk cafe permit shall be issued to the permittee for one (1) subsequent sidewalk café season following the revocation.

E. Liquor License: In the event of revocation, the city clerk shall notify the Iowa Alcoholic Beverages Division. The permit holder may appeal the revocation to the Iowa Alcoholic Beverages Division Hearing board, pursuant to Section 123.32, Code of Iowa, or any other applicable code section. Revocation or suspension of authorization by the city of operation of a sidewalk café shall not affect the licensing of the principal establishment, unless separate action to suspend or revoke that license or permit is also initiated by the City Council.

3-4G-15: REMOVAL OF SIDEWALK CAFÉ:

The city reserves the right to require a sidewalk café to temporarily suspend or cease operation or remove the sidewalk café for an emergency or any other reason so that the city may access public right of way. The cost to remove and clean up a sidewalk café shall be at the permittee's expense. In the event of city infrastructure causes damage to the sidewalk café, the city shall not be liable for such damage. Sidewalk cafes shall be removed within five (5) business days of the expiration of the permit. If the permittee fails to remove the sidewalk café when directed by the city or within fourteen (14) days after the expiration of the permit, the city may remove the sidewalk café and the cost thereof shall be assessed against the adjacent property.

3-4G-16: PENALTY:

Any person or establishment that violates any of the provisions of this Article shall be guilty of a municipal infraction and fined as provided in subsection 1-3-2 of this Code.

3-4G-17: SEVERABILITY:

If any provision or clause of this Article or its application to any person or establishment in any circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Article, which can be given effect without the invalid provision, or application, and to this end, the provisions of this Article shall be severable.

~~3-4G-17: EFFECTIVE DATE:~~

~~This Article shall be in full force and effect on January 1, 2024.~~

1-4-11: METHOD OF KEEPING MINUTES:

A. ~~Minutes of all city council meetings shall be maintained by the city clerk as a permanent record. The city clerk shall record the minutes of all city council meetings in accordance with Iowa Code Section 21.3(2). A record shall be made of the names of the member of the public recognized by the chair to speak, and addresses of persons addressing council and a summary of their remarks. A record shall be made of each member moving and seconding a motion, resolution, ordinance, or amendment. Open session~~ Minutes shall be available for viewing ~~by any member of the public~~ during normal city hall business hours as soon as the minutes of the meeting are complete. Minutes shall be made available no later than the close of business on the Friday prior to the next regular council meeting.

B. Council members shall notify the city clerk prior to the start of the meeting if a correction to the previous meeting's minutes is suggested to allow the city clerk time to verify that such a correction is required. (Ord. 5662, 9-19-2022)

21.3 Meetings of governmental bodies.

1. Meetings of governmental bodies shall be preceded by public notice as provided in [section 21.4](#) and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in [section 21.5](#), all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

2. Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

[C71, 73, 75, 77, §28A.1, 28A.5; C79, 81, §28A.3]

C85, §21.3

[93 Acts, ch 25, §2](#); [2020 Acts, ch 1062, §94](#)

Referred to in [§372.13](#)