

# SIDEWALK SERVICE AREA PERMIT APPLICATION PACKET

## GENERAL APPLICATION INSTRUCTIONS

Effective Date: May 1, 2024

This is the City of Mason City Sidewalk Service Application Package. Sidewalk Service Area permits are issued in compliance with Title 5, Chapter 1, Article F of the Municipal Code and are generally valid for one year.

Food-primary Establishments and Liquor-primary Establishments may apply for a Sidewalk Service Area Permit. The permit will authorize the service of food or alcohol on a public sidewalk or public plaza, contiguous with and having direct access to any building where a food-primary establishment or a liquor-primary establishment is located, and where food or beverages are taken for consumption by persons sitting or standing at tables in that area.

A food-primary establishment is “[A] business where the service of food, as opposed to liquor, is the primary focus of the business and which meets the following criteria:

- A. Serves meals prepared on the premises for consumption on the premises;
- B. Has a food service menu from which customers may order;
- C. Has an employee whose primary duty is the preparation of food and an employee whose primary duty is to serve food to customers;
- D. Has a kitchen separate from the bar equipped with all of the following: a stove, a griddle, a grill or broiler, and a food refrigeration unit with a capacity in excess of twenty (20) cubic feet;
- E. Operates the restaurant service during at least sixty percent (60%) of the hours that the business is open to the public; and
- F. Holds itself out to be a restaurant and advertises itself as a restaurant if it advertises;
- G. Includes a cafe, cafeteria, coffee shop, delicatessen, ice cream shop, lunchroom or tearoom;
- H. May also offer alcohol for sale on premises so long as the primary function of the business is to serve food.”

A liquor-primary establishment is “[A]n establishment where the service of alcoholic beverages directly to the public, as opposed to food, is the primary focus of the business.”

**FEE:** \$30.00 to be paid at the time of application.

## APPLICATION PROCESS:

Please fill out the attached *Application Checklist* and *Application Form* and submit the application, proof of insurance, plans, photographs and alcoholic beverage license (if applicable) to the Development Services Department.

### **APPROVAL PROCESS:**

Establishments must apply for and obtain a sidewalk service area permit from the City prior to operation. The initial application for a sidewalk service area is reviewed by the Development Services Director for completeness and then forwarded to the City Council for approval. The Council may impose conditions on approval. Annual renewal applications are reviewed by the Development Services Director. If the sidewalk service area continues to operate in accordance with the initial permit, the renewal will be granted. If the Director determines that the operation, scope, or area of the sidewalk service area has changed significantly, the application will be considered an initial application and must be approved by the City Council.

### **CONDITIONS OF APPROVAL:**

For all new Sidewalk Service Area Permits, the City Council has the authority to impose any conditions necessary on the use of public property to ensure protection of the public health, safety and welfare. For all permit renewals, the Development Services Director may impose any conditions necessary to minimize the impact of the sidewalk service area on neighboring properties and to ensure that it does not pose a threat to public health and safety.

All Sidewalk Service Area Permits are subject to the following conditions, as identified in Title 5-1F-3 of the Municipal Code:

#### **A. Usable Area:**

1. A sidewalk service area may not extend onto the sidewalk in a manner that will not allow a minimum of five feet (5') of unobstructed sidewalk adjacent to the street for pedestrian use, nor extend into a public plaza in a manner that will not allow an unobstructed twenty foot (20') fire lane.
2. No tables and chairs shall be placed in street corner areas defined by building lines extended to the street, and no closer than ten feet (10') from an alley.
3. The area for a sidewalk service area shall be delineated during the hours of operation by ropes or some other suitable method which shall be clearly visible to pedestrians. If required by the City Council, tables, chairs and other items are not required to be removed at the end of each day's operation unless required as a condition of approval by the City Council, provided that all items are secure from unauthorized removal or impact from wind or weather. No materials shall be stored on the public right-of-way.
4. A sidewalk service area may not utilize any public amenities such as benches, seats, tables or trash receptacles.
5. No person shall sell or display merchandise, or permit the sale or display of merchandise, under this subsection until he or she has first obtained liability insurance or an amendment or rider to an existing liability insurance policy insuring the said person and the City and its officers and employees, against liability which might arise out of the display or sale of merchandise by such person upon the public right-of-way or public plaza, in an amount at least equal to the maximum statutory liability of the City, its officers and employees. The City, together with its officers and employees, shall be named as additional insured in the said liability insurance policy, and shall meet all other requirements established by the City.

B. Days And Hours Of Operation:

1. The sidewalk service area may be operated and used any time of the year. Outdoor heating units, if used, must meet all applicable Building and Fire Codes.
2. Sidewalk service areas shall be set up and operated each day only between the hours of seven o'clock (7:00) A.M. and eleven o'clock (11:00) P.M. The City Council may, as part of the initial permit approval, impose more restrictive hours.

C. Sidewalk Service Area Permit Required:

1. Establishments must apply for and obtain a sidewalk service area permit from the City prior to operation. Each applicant shall file an initial application with the Development Services Director, on forms provided by the City and containing all pertinent information as the City may require, and shall agree to abide by State and local laws governing use of public right-of-way. Establishments dispensing any alcoholic beverage must do so under State and local law.
2. An initial sidewalk service area permit shall be reviewed by the City Council. The Council may impose conditions upon the use of public property to ensure protection of the public health, safety and general welfare.
3. A sidewalk service area permit shall be issued in conjunction with yearly renewals of alcoholic beverage licenses/permits, or one (1) year from the date of issuance for establishments not dispensing alcohol. The initial application may be less than the one (1) year period to coincide with existing alcoholic beverage licenses/permits, and will require full payment.
4. Annual renewals shall be reviewed by the Development Services Director. If the sidewalk service area continues to operate in accordance with the initial permit, the renewal shall be granted. The Development Services Director may impose any conditions he/she deems necessary to minimize the impact of the sidewalk service area on neighboring properties and to ensure that the sidewalk service area does not pose a threat to public health and safety. If the Development Services Director determines that the operation, scope or area of the sidewalk service area have changed significantly from that approved in the initial permit, he/she may require the owner or operator to submit a new permit for review by the City Council.
5. An annual fee for a sidewalk service area permit shall be established by Council resolution.
6. An applicant for a sidewalk service area who intends to serve alcoholic beverages must file an application for and obtain an outdoor service area permit from the State of Iowa.
7. The City shall retain the right to terminate the sidewalk service area permit but only after written notice of violation has been given and the time to cure the violation has expired. Grounds for termination of the sidewalk service area permit shall include, but not be limited to, violations of the State and local liquor control laws, violations of the sidewalk service area permit, and creating a safety hazard, health hazard and/or public nuisance under State or local law. Additionally, the City retains the right to terminate the sidewalk service area permit and direct removal of sidewalk service area operations if, after deliberation, the City Administrator determines there is a substantial and reasonable need for use of the public right-of-way for a valid public purpose.
8. The use of public right-of-way permitted shall in no way interfere with access to public or City utilities located and/or operated within the City's public right-of-way. In addition, each applicant shall be required to provide a certificate of insurance satisfactory to the City, and shall agree to hold the City harmless against any and

all liability arising from interruptions, accidents or other actions arising from the sidewalk cafe operation or location in the public right-of-way.

9. No person shall establish, operate, or be issued a permit for a sidewalk service area under this subsection until he or she has first obtained liability insurance or an amendment or rider to an existing liability insurance policy insuring the said person and the City and its officers and employees, against liability which might arise out of the display or sale of merchandise by such person upon the public right-of-way in an amount of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) cumulative. Failure to obtain such insurance shall be a misdemeanor violation of this Code. The City, together with its officers and employees, shall be named as additional insured in the said liability insurance policy, and shall meet all other requirements established by the City.

D. Operation Of Sidewalk Service Area:

1. The City retains the right to limit the number of sidewalk service areas in subsection A of this section.
2. Other than signs permitted in title 12 of this Code, signs shall not be permitted in the sidewalk cafe area except on chairs, tables, umbrellas or other amenities, as approved by the City. The amenities used in the sidewalk cafe area shall be maintained in good condition.
3. The sidewalk serving area must be arranged to allow for access to building entrances. No blockage of building entrances or exits shall be permitted in a sidewalk cafe area.
4. Additional restroom capacity may be required to comply with local Building and Housing Codes.
5. Occupancy limits shall be determined as set forth in title 10, "Building Regulations", of this Code.
6. Sidewalk service areas shall be subject to inspection at least annually or at any other time at the direction of the City.
7. A sidewalk service area operated by a liquor-primary establishment must have an employee monitoring the area at all times during the hours liquor is consumed.
8. "Bring your own bottle of liquor" (BYOB) is not allowed in any sidewalk service area. Any alcoholic beverage possessed or consumed in the sidewalk service area must have been sold by the sidewalk service area permit holder.
9. The sidewalk service area permit holder shall be responsible for trash removal and must maintain the area and surrounding five feet (5') in a clean and litter free manner during all hours of operation, and shall restore the area and surrounding five feet (5') to its normal condition as a pedestrianway and litter free after operation each day.
10. The operation of any sidewalk service area shall be in conformity with all applicable Federal, State, and local laws and regulations. (2017 Code)

## APPLICATION CHECKLIST

Use this checklist as a guide to prepare your application. Submitting a complete application will result in quicker permit approval. All items identified on the checklist are required unless otherwise noted.

### ☐ **Application**

- Please ensure that all pages of the enclosed application are accurately completed and all the necessary signatures are provided.
- For additional information, please read Title 5, Chapter 1, Article F of the Mason City Municipal Code, available on the City's web site, [www.masoncity.net](http://www.masoncity.net).

### ☐ **Proof of Insurance**

- No applicant will be granted a permit unless they have first obtained liability insurance or an amendment or rider to an existing liability policy that covers both the insured, the City of Mason City, and its officers and employees against liability that may arise from the operation of the sidewalk service area.
- The insurance must provide at least one million dollars (\$1,000,000) of coverage per occurrence with a total cumulative coverage of at least two million dollars (\$2,000,000).
- The proof of insurance must list the City as an alternate insured under the policy.

### ☐ **Alcoholic Beverage License (only for establishments serving alcohol.)**

- Provide a copy of your State of Iowa Alcoholic Beverages License showing that an outdoor service area has been authorized by the state.
- If your outdoor service area has been authorized for 14 days or less, provide a copy of your letter of authorization from the Iowa Alcoholic Beverage Division showing the dates the outdoor service area permit is valid.
- If you do not yet have a valid license, or if your license does not authorize an outdoor service area, please apply for the appropriate license online at the Iowa Alcoholic Beverages Division at their web site: <https://abd.iowa.gov/licensing>

### ☐ **Photograph(s)**

- Provide color photograph(s) either via email to [developmentreview@masoncity.net](mailto:developmentreview@masoncity.net) or printed in color on 8 ½" X 11" paper(s). The photos should be clear and depict the proposed site of the Sidewalk Service Area and its relationship to the surrounding public way.

### ☐ **Plan(s)**

- Plan(s) shall be submitted on white paper no smaller than 8 ½" X 11" and no larger than 11" X 17" or digitally as a .pdf that is legible when printed on 11" X 17" paper. Pages with a gray or dark background will not be accepted. The page should include a 1 inch clear margin on all sides. Please avoid pencil drawings since they do not copy clearly. Applicants are encouraged to use the site plan grid included in this packet. The plans should clearly illustrate:
  - The business name and address.
  - The scale of the drawing.
  - A north arrow
  - Abutting street names

- The exact length(s) and width(s) of the proposed sidewalk service area, (they must match the dimensions on the application.)
- The means of enclosure that will separate the sidewalk service area from the remainder of the public way, with the exception of the entrance. Note that a sidewalk service area cannot enclose items or fixtures that must be accessible to the public or to the City for emergency services. This includes, but is not limited to, benches, fire hydrants, planters (above grade or at grade) or light poles.
- Compliance with clearance requirements, taking into consideration that:
  - A Sidewalk Service Area on a public sidewalk must be placed so that a five foot sidewalk will remain unobstructed.
  - A Sidewalk Service Area on a public plaza must be arranged so that a 20 ft. fire lane will remain unobstructed.
  - Signs, landscaping beds, light fixtures and benches are considered obstructions.
  - No tables or chairs can be placed on a street corner as defined by building lines extended to the street and can be placed no closer than 10 feet from an alley.

If you need assistance completing this application or have questions about the application process, please contact the Development Services Department at 641-421-3626 or visit the office in person on the 3<sup>rd</sup> floor of City Hall, 10 First St. NW, Mason City.

## City of Mason City

Development Services Department

10 First St. NW

Mason City, IA 50401

641-421-3626

### OFFICE USE ONLY

RECEIVED ON \_\_\_\_\_

APPROVED ON \_\_\_\_\_

SMARTGov # \_\_\_\_\_

## SIDEWALK SERVICE AREA APPLICATION

Please print or type

### BUSINESS INFORMATION:

Business Name \_\_\_\_\_ Business Phone \_\_\_\_\_

Premise Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ eMail \_\_\_\_\_

Managers Name \_\_\_\_\_ Managers Phone \_\_\_\_\_

Business Owner \_\_\_\_\_

Business Owner Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ eMail \_\_\_\_\_

Type of Establishment: Food-primary \_\_\_\_\_ Liquor-primary \_\_\_\_\_

Will an outdoor heating unit be used? Yes \_\_\_\_\_ No \_\_\_\_\_

Will alcoholic beverages be sold or consumed in the Sidewalk Service Area? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, when does the Alcoholic Beverage License expire? \_\_\_\_\_

If yes, does the business have an Outdoor Service Permit? Yes \_\_\_\_\_ No \_\_\_\_\_

Dates of Operation \_\_\_\_\_ Hours of Operation \_\_\_\_\_

<b>APPLICANT INFORMATION</b>
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**Applicant Name** \_\_\_\_\_

**Applicant's Mailing Address** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Phone** \_\_\_\_\_ **eMail** \_\_\_\_\_

**Description of the sidewalk service area (dimensions, square footage, number of tables, chairs and heaters, etc.)**

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## SIGNATURES

By signing below, applicant and owner agree to comply with Title 5.1F of the Mason City Municipal Code and all other conditions and special conditions in the City's policy for issuance of a Sidewalk Service Area permit. Any permit so issued shall be subject to revocation by the City for failure to meet or to maintain the area of the sidewalk café in strict accordance with the requirements of Title 5.1F or to comply with other applicable laws, rules, regulations, orders or directives. In addition, the applicant and owner agree to indemnify the City for any and all losses, claims, actions, judgments for damages or injury to persons and property and losses and expenses caused or incurred by the applicant and owner, its servants, agents, employees, guests business invitees, and not cause by or arising out of the tortious conduct of the City of Mason City or its employees.

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SIGNATURE OF APPLICANT

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DATE

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PRINTED NAME OF APPLICANT

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SIGNATURE OF BUSINESS OWNER

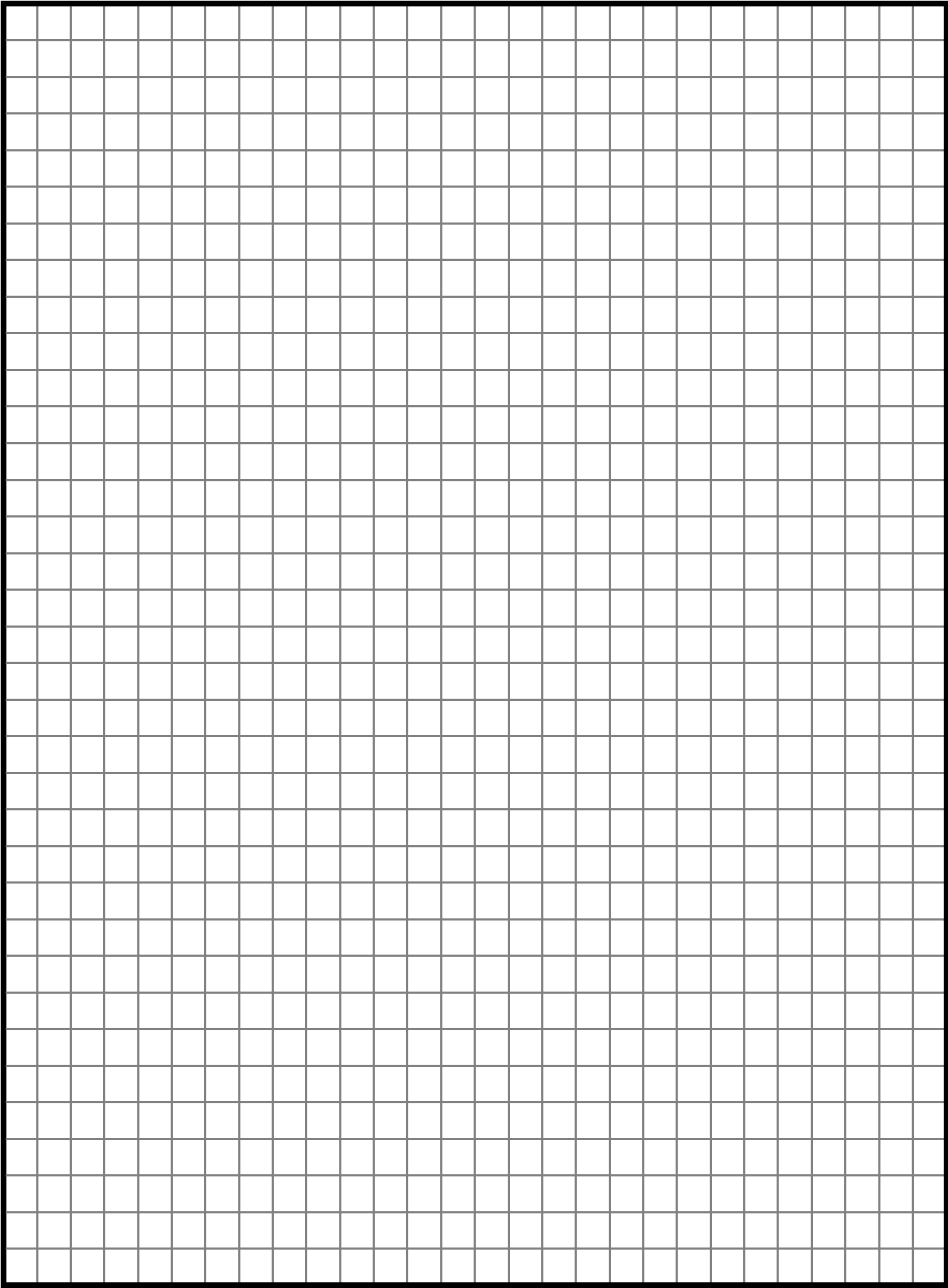
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DATE

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PRINTED NAME OF BUSINESS OWNER

SIDEWALK SERVICE AREA - SITE PLAN



Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_