

CITY OF HILLSDALE DOWNTOWN SIDEWALK AMENITIES POLICY

NOVEMBER, 2008

General

1. The City of Hillsdale, recognizing the unique nature of the downtown Historical District, wishes to allow certain special uses of the public sidewalks in this area that would otherwise be banned by City ordinance, in keeping with the following guidelines.
2. The intent of this policy is, first and foremost, to ensure the provision of safe, ADA-compliant pedestrian “accessible routes” of an appropriate width, free of all obstacles and hazards, on the public sidewalks within the downtown area and, once these accessible routes have been established, to maintain and provide safe pedestrian passage. The City recognizes that certain privately provided sidewalk amenities add convenience, charm, and character to the downtown area, and determines that there is a public purpose in permitting these encroachments into the public right-of-way, within certain limits.
3. No person, firm, corporation or other entity shall place, cause or allow the placement of any item on any sidewalk or within any other part of a right of way, without first applying for and receiving a valid permit issued by the City of Hillsdale allowing such special use, subject to any restrictions such permit might contain.
4. An application for a permit pursuant to this policy must be submitted to the City Planning Department for approval and shall contain the following information:
 - a) The name, address, and contact information of both the applicant and the business.
 - b) The name, address and contact information of the property owner if other than the applicant.
 - c) The proposed hours of occupancy.
 - d) A site plan with the location and number of proposed chairs, tables, railings posts, benches, umbrellas, planters, outdoor electrical outlets, hydrants, and any other public or private equipment or item.
 - e) The proposed color and design of the proposed chairs, tables, railings, posts, benches, umbrellas, planters or other. The style and material of amenities including, but not limited to A frame signs, planters and benches, should have a style, color and material consistent with and compatible with the downtown streetscape.

- f) The proposed area of occupancy including square feet and dimensions.
- g) The proposed pedestrian traffic pattern and circulation for customers and members of the general public.
- h) A copy of a certificate of insurance with a minimum of one million (1,000,000) dollars per occurrence & two million (2,000,000) dollars aggregate which names the City of Hillsdale as additional insured; insurance policies from both the owner of the building and the lessee if applicable.
- i) A statement indicating whether the application is new or a renewal.
- j) Written permission of the property owner if other than the applicant.
- k) A signed agreement committing and requiring the applicant to repair any damage caused to the sidewalk or right of way as a result of the placement of any permitted item or the operation of a café or other permitted business or other activity on a sidewalk or within any other part of the right of way at the applicant 's expense.
- l) If the sale of alcohol is proposed, a copy of approval from the Michigan State Liquor Control Commission.

5. The City Planning Department shall review the application for compliance with the policy and make recommendation for approval/disapproval to the City Manager. The City Manager or his designee shall approve the issuance of the permit, approve the issuance of the permit subject to restrictions or disapprove and deny the issuance of the permit, as the circumstance requires.

6. Permits must be applied for annually and all activities or other actions taken under them shall adhere to all specifications of the City of Hillsdale Sidewalk Amenities Policy and the terms and restrictions contained within the permit. Failure to do so will result in the City Planning Department notifying the permit holder of a violation, either in writing or verbally. If the violation is designated as a safety hazard, it shall be corrected and rectified within the twenty-four (24) hour period next following notification. All violations that are not designated as safety violations shall be corrected and rectified within the seventy-two (72) hour period next following notification. If any violation is not corrected and rectified within the time specified, the permit in question shall automatically become void and of no further force or effect, and all items placed on the sidewalk and all business or other activities taken pursuant to it shall be immediately removed and terminated.

7. Appeals involving the interpretation or application of these rules, the imposition of restrictions and the denial of a permit may be taken to the Zoning Board of Appeals under such provisions and process as prescribed in Section 36-84 of the Hillsdale Municipal Code.

8. This policy is intended to exist only so long as it is self-policing; hence, downtown businesses must voluntarily comply with the conditions of this policy in recognition of the fact that these uses are not typically permitted under City ordinance. If businesses abuse the policy by obstructing accessible routes, limiting the use of benches and/or other amenities to their own customers, by way of example but not limitation, the policy will be rescinded and the existing ordinances strictly applied.

9. This policy does not apply to any other specific permission, permit, or license granted by the City Commission; for example, "sidewalk sales" or other events.

10. The City reserves the right to require the removal of any item or items in the public right of way, regardless of whether the item may be otherwise permitted under this policy, if in the sole judgment of the City, the item or items constitute a particular hazard to the public health, safety, or welfare that outweighs the potential public benefit.

District Boundaries.

11. This Policy applies only within the zoning designation of the B-2, Central Business District as defined by the Official Zoning Map of the City of Hillsdale

General Restrictions

12. The "accessible route" shall be not less than five (5) feet in width, where the physical construction of the sidewalk permits such width; in cases where less than five (5) feet is available, the accessible route shall be as wide as possible, but not less than three (3) feet as required pursuant to the Americans with Disabilities Act (ADA). The accessible route for each specially permitted use on a sidewalk or within any other part of the right of way shall be a straight path with the accessible route within all other specially permitted uses within each block. Tree grates may not be part of the accessible route. No sidewalk obstacles or obstructions of any sort may be placed within or encroach upon the accessible route.

13. Any space remaining between the accessible route and the building face shall be known as the "user zone". Any space between the accessible route and the street shall be known as the "street zone". Both the user zone and the street zone may be used by individual businesses for the placement of a wide variety of public amenities, including benches, tables, chairs, plants, waste receptacles, artworks, or similar amenities.

14 Items offered for sale within the permitted area of the public right of way shall be of merchandise that is also available inside and shall be called outdoor open-air sale items. These items may not, either singly or in the aggregate:

a) Obstruct over fifty (50) percent of the “window shopping” viewing area unless the items are at a height that does not impede the ability to view merchandise within the business.

b) Except for food and drink at a permitted café or restaurant, a permit holder shall not undertake or allow any sales of items displayed within the permitted area to members of the general public or otherwise except within the interior of the permit holder’s business.

15 Items placed and activities undertaken pursuant to permit in the public right of way shall be available for the use and benefit of the general public, and may not be reserved for the use or benefit of patrons of any specific business or its employees.

16. All outdoor sale items must be brought in at the close of business every day. Any such items as are left after closing will be considered abandoned and may be removed and disposed by the City in such manner as it determines appropriate without notice to the affected permit holder.

17. All frame or sandwich board signs shall comply with the provisions of Section 26-5 (p) of the Hillsdale Municipal Code.

18. No item may be affixed to lampposts, signposts, sidewalk, hydrants, utility boxes or public amenity without the prior written permission of the City Manager. No item may be in such a location as to constitute a hazard or an obstruction to the general public or to the performance of public service by any City or other governmental agency having jurisdiction over the area.

Additional Restrictions and Conditions for Outdoor Dining/Sidewalk Cafe

19. Outdoor Dining/Sidewalk cafes may be operated only upon and pursuant to the issuance of an annual permit subject to the following restrictions and conditions:

a) All previously noted restrictions and conditions

b) Review and approval by staff of a site plan.

c) Outdoor dining/sidewalk cafe may be located on public sidewalks only adjacent to or abutting the indoor restaurant that operates the outdoor dining/sidewalk cafe.

d) Notwithstanding anything in this policy to the contrary, tables, chairs, and all other furnishings or accessories may be left in place overnight but shall be

removed from the sidewalk and stored indoors whenever outdoor dining/sidewalk cafe is not operated during the general business hours of the restaurant or café to which the outdoor dining/sidewalk café is adjacent as well as at the expiration of any permit, whichever is applicable.

e) No permit shall in any way excuse an applicant from complying with any applicable requirement imposed by the Liquor Control Commission of the State of Michigan on the sale and consumption of alcohol. Such sale and consumption of alcohol shall be allowed within the permitted area only in accordance with and subject to the provisions of any licenses and permits required and issued by the Liquor Control Commission and any other applicable state statutes, state regulations or municipal ordinances.