

**ORDINANCE NO. O-236-2005**

**AN ORDINANCE OF THE LAFAYETTE CITY-PARISH COUNCIL AMENDING THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES BY ENACTING SECTIONS 78-401 THROUGH 78-450 REGARDING PUSHCARTS, OUTDOOR DINING AND OUTDOOR MERCHANDISE DISPLAY**

**BE IT ORDAINED** by the Lafayette City-Parish Council:

**WHEREAS**, the Lafayette City-Parish Council has determined that it is in the interest of health, safety and welfare of the general public to establish a uniform set of rules and regulations for pushcarts, outdoor dining and outdoor merchants that are fair and equitable; and

**WHEREAS**, the Lafayette City-Parish Council desires to develop an outdoor vending system that will enhance the overall appearance and environment in the Lafayette Central Business District; and

**WHEREAS**, the Lafayette City-Parish Council desires to provide economic development opportunities to small entrepreneurs in Lafayette; and

**WHEREAS**, the Lafayette City-Parish Council desires to promote stable vendors who will enrich Lafayette and be assets to public security; and accordingly

**BE IT FURTHER ORDAINED** by the Lafayette City-Parish Council:

**SECTION 1:** All of the foregoing “Whereas” clauses are adopted and incorporated in this ordinance.

**SECTION 2:** Chapter 78, Sections 78-401 through 78-450 of the Lafayette City-Parish Consolidated Government Code of Ordinances, “Pushcarts, Outdoor Dining and Outdoor Merchants”, are hereby enacted to read as follows:

**“ARTICLE VII. PUSHCARTS, OUTDOOR DINING AND OUTDOOR MERCHANDISE DISPLAY**

**DIVISION I. IN GENERAL**

Sec. 78-401. Territorial applicability.

Except as otherwise provided in this article, the provisions of this article apply only in the Central Business District zoning classification (“CBD”).

Sec. 78-402. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Alcoholic beverages* shall have the same meaning as prescribed in Chapter 6, as shall from time to time be amended.
- (2) *Bar* means a counter or similar device from which alcoholic beverages are dispensed, or on which alcoholic beverages are mixed.

- (3) *CBD* means the Central Business District zoning classification as assigned by Department of Planning, Zoning and Codes of the City-Parish Consolidated Government.
- (4) *Customer Service Division* means the Customer Service Division of the Utilities Department of the City-Parish Consolidated Government.
- (5) *Fire department* means the Lafayette Fire Department.
- (6) *Fire official* means an employee of the fire department whose duty it is to respond to fire alarms or emergency calls, to investigate fires, or to conduct inspections for compliance with fire department regulations.
- (7) *Emergency medical personnel* means an employee of an authorized ambulance service whose duty it is to respond to emergency calls.
- (8) *Landscaping bed* means the section of land adjacent to the street that contains grass, plants and/or trees.
- (9) *Law enforcement officer* means an employee of the Lafayette Police Department, Lafayette Parish Sheriff's Office, Louisiana State Police or the Marshal and Deputy Marshals of the City Court of Lafayette whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of the state of Louisiana.
- (10) *Merchandise* means tangible personal property for sale.
- (11) *Outdoor dining area* means a temporary, easily removable extension of an established restaurant, consisting of movable tables and chairs that are arranged directly upon the sidewalk paving as an adjunct and directly adjacent to a restaurant for the purpose of selling food and beverages to customers for on-site consumption.
- (12) *Outdoor merchandise display area* means a temporary, easily removable extension of an established retail shop, consisting of movable tables, shelves and/or racks that are arranged directly upon the sidewalk paving as an adjunct and directly adjacent to a retail business for the purpose of displaying, exhibiting, or offering for sale the merchandise sold inside the retail shop.
- (13) *Permit* means an official document issued by the Customer Service Division authorizing the operation of an outdoor dining area, outdoor merchandise display area, or pushcart, reflecting the correct name and address of the permit holder to whom the permit is issued, and reflecting the location and type of the permitted activity.
- (14) *Permit holder* means the person to whom a permit is issued.
- (15) *Permitted activity* means the operation of an outdoor dining area, outdoor merchandise display area or pushcart with a permit.
- (16) *Pushcart* means a wheeled cart which may be moved by one person without the assistance of a motor and which is designed and used for the purpose of storing, displaying, exhibiting, selling or offering for sale any food or beverages (except alcoholic beverages).
- (17) *Restaurant* means a place of business located in a building whose purpose and primary function is to sell food prepared on premises in a fully functional kitchen, on all days of operation.
- (18) *Retail shop* means a place of business located in a building whose purpose and primary function is displaying, exhibiting, selling or offering for sale merchandise.

- (19) *Sale, sell or selling* means the lending or exchange of merchandise, including food and beverages, or services for money, and shall include the lending or exchange of merchandise, including food and beverages, for discretionary monetary donations.
- (20) *Sidewalk* means the paved pedestrian walkway adjacent to a roadway and constructed or maintained by the City-Parish Consolidated Government, whether on public or private property.
- (21) *Special events* means organized special events or activities sponsored and/or produced by governmental or quasi-governmental organizations that are of general public interest and are open to public attendance, including, but not limited to, Mardi Gras, Festival International, Downtown Alive series, Bach Lunch series and Festivals Acadiens, and other events as determined by the Sidewalk Vendor Committee.
- (22) *Zoning administrator* means a representative of the Zoning Division of the Department of Planning, Zoning and Codes of the Lafayette City-Parish Consolidated Government.

Sec. 78-403. Sidewalk Vendor Committee.

A Sidewalk Vendor Committee is hereby created and shall be made up of the following persons, or their representatives: Police Chief, Fire Chief, Director of Public Works, Director of Planning, Zoning and Codes, Director of Traffic and Transportation, Director of the Downtown Development Authority and Customer and Support Services Manager.

The Sidewalk Vendor Committee shall issue any and all guidelines and standards under this article concerning permitted activities and shall designate locations for pushcarts.

Sec. 78-404. Prohibited.

Except as a permit may be issued pursuant to this division, it shall be unlawful for any person to display, exhibit, sell or offer for sale any food, beverages, goods or wares of any kind whatsoever, by whatever name called, upon any sidewalk within the CBD.

Any person violating this section shall remove the pushcart, outdoor dining area, outdoor merchandise display area or other property being used in violation of this section from the sidewalk when directed to do so by any law enforcement officer. The law enforcement officer shall have the authority to remove or have removed from the sidewalk the pushcart, outdoor dining area furnishings and equipment, outdoor merchandise display area furnishings and equipment or other property used in connection with the violation of this section if it is not voluntarily removed.

Any person violating this section shall be guilty of a misdemeanor. Each instance or portion of a day of a violation of this section shall be considered a separate offense.

Sec. 78-405. Exceptions.

None of the requirements of this article for permits shall apply to pushcarts, outdoor dining areas, or outdoor merchandise display areas that are incorporated into a special event by a special event organizer.

Permits issued for pushcarts under the provisions of this article shall be temporarily suspended at locations designated for special events. Permit holders may, however, apply to continue their operation during the special event pursuant to the procedures set up by a special event organizer. Permits issued for outdoor dining areas and outdoor merchandise display areas shall not be temporarily suspended in areas designated for special events.

Sec. 78-406. Application generally.

Application for a permit required by this division shall be made to the Customer Service Division. The guidelines and standards established by the Sidewalk Vendor Committee shall be included with the application.

The application shall be in such form as prescribed by the Customer Service Division. That form shall include, but not be limited to, the following information:

- (1) The full name, address, telephone number and tax identification number of the applicant.
- (2) The physical location of the permitted activity.
- (3) The type of permitted activity.
- (4) A statement of the days and hours the applicant will engage in the permitted activity.
- (5) If the applicant is a corporation, partnership, limited liability company, firm or other legal entity of any type other than a natural person, the names and addresses of all officers, partners, members, principals and/or registered agents.
- (6) The full name, address, telephone number and tax identification number of all assistants, associates or employees who shall be employed by the applicant pursuant to Section 78-431.

The applicant or permit holder must notify the Customer Service Division within ten (10) days of any change to the information provided under this section.

Sec. 78-407. Instruments to accompany application.

Before any permit shall be issued, the application must be accompanied by:

- (1) A certified copy of the certificate of incorporation issued by the Louisiana Secretary of State if the applicant is incorporated under the laws of the state of Louisiana.
- (2) A certified copy of the certificate of organization issued by the Louisiana Secretary of State if the applicant is a limited liability company organized under the laws of the state of Louisiana.
- (3) A certified copy of the certificate of authority issued by the Louisiana Secretary of State if the applicant is a corporation incorporated, or a limited liability company organized, under the laws of a state other than Louisiana.
- (4) A certified copy of the certificate of registry if the applicant is a partnership.
- (5) Certificate(s) showing the applicant is registered with the Louisiana Department of Revenue and local tax collection agencies.
- (6) If the permitted activity is an outdoor dining area or outdoor merchandise display area, a certificate of occupancy issued by the zoning administrator for the building from which it will be operated.
- (7) If the permitted activity is an outdoor dining area, a copy of the restaurant's alcoholic beverage license(s), if any.
- (8) If the permitted activity is a pushcart, design drawings and specifications of the pushcart.

- (9) If the permitted activity is an outdoor dining area or outdoor merchandise display area, design drawings and/or photographs, and specifications for all elements of the outdoor dining area or outdoor merchandise display area equipment and the location of such equipment proposed for placement upon the sidewalk.
- (10) If the permitted activity is a pushcart, a written statement that the applicant, and any assistants, associates or employees who shall be employed by such person, have not been convicted of a felony under the laws of the United States, this state, or another state or country within two years prior to filing said application.

The applicant or permit holder must notify the Customer Service Division within ten (10) days of any change to the information provided under this section.

Sec. 78-408. Separate application and permit for each location.

A separate application and permit shall be required for each physical location in which a permitted activity is engaged. Each application shall indicate the permitted activity being applied for, and each permit shall indicate whether it is a pushcart permit, outdoor dining permit or outdoor merchandise permit.

Sec. 78-409. Fees; duration.

For each permit issued hereunder, the applicant shall pay a fee to the City-Parish Consolidated Government pursuant to the table below:

	<u>Application Fee</u>	<u>Permit Fee</u>	<u>Renewal Fee</u>
Pushcart	\$100.00	\$125.00	\$125.00
Pushcart Relocation	n/a	\$75.00	n/a
Outdoor Dining Area	\$100.00	\$1.00/square foot	\$1.00/square foot
Outdoor Merchandise Display Area	\$100.00	\$1.00/square foot	\$1.00/square foot

Permits issued hereunder shall be valid from January 1 through December 31 of the year in which they are issued. Permits issued after January 1 of any given year shall be valid only through December 31 of that year. The permit fee shall be paid in a pro rata amount equal to one-twelfth (1/12) of the annual permit fee for each month, or a portion thereof, that the permit will be valid. Application fees and renewal fees shall not be prorated. Application fees are nonrefundable.

Sec. 78-410. Liability and insurance.

- (1) There shall be no liability on the part of the City-Parish Consolidated Government or upon any of its officers, agents or employees for any damage sustained by the permit holder from any cause whatsoever.
- (2) Prior to the issuance of a permit, the applicant shall furnish the Customer Service Division with a signed and notarized statement that the permit holder shall hold harmless the City-Parish Consolidated Government, and the officers, agents and employees of same and shall defend and indemnify the City-Parish Consolidated Government, and the officers, agents and employees of same for any claims, including claims brought through or under the permit holder by way of subrogation, for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. This statement shall be in the form prescribed by the city-parish attorney.
- (3) Each permit holder shall, at his own expense, maintain in full force and effect a general liability insurance policy covering the permitted activity.

The certificate of insurance shall be on file with the Customer Service Division and maintained current at all times. In the event that the required insurance coverage is cancelled, materially changed or expires, the permit shall be immediately suspended as of the date of such cancellation, material change or expiration.

- (4) The insurance policy required under this section may be the same insurance policy providing insurance coverage for the restaurant operating an outdoor dining area or the retail shop operating an outdoor merchandise display area, so long as the outdoor dining area or outdoor merchandise display area are covered by the insurance policy.

#### Sec. 78-411. Issuance.

The Customer Service Division of the City-Parish Consolidated Government shall issue a permit only if the application meets the guidelines and standards established by the Sidewalk Vendor Committee and such applicant has fully complied with all of the provisions of this division, including the payment of the fee provided for in Section 78-409.

An applicant for, or holder of, a permit issued hereunder who is aggrieved by a decision of the Customer Service Division in denying an application for a permit may, within ten days of the notification of the decision, appeal to the Sidewalk Vendor Committee.

#### Sec. 78-412. Renewal.

A permit issued hereunder may be renewed without making a new application upon submitting a renewal application stating that all information provided on the initial application is still correct and the permit holder is still in compliance with all requirements. The fee for the renewed permit shall be in accordance with the schedule in Section 78-409. There shall be no limit on the number of renewals, except that the renewal may be refused if the permit holder fails to comply with any provision of this article or the guidelines and standards promulgated by the Sidewalk Vendor Committee.

#### Sec. 78-413. Display.

The permit issued hereunder shall be prominently displayed in a conspicuous place at or near the permitted activity and shall remain so displayed for so long as the permit holder engages in the permitted activity. The permit issued hereunder shall be produced and handed over immediately upon request to a law enforcement officer or the Customer Service Division, or its agent.

#### Sec. 78-414. Transferability.

The permit holder is the only person authorized to use the permit issued hereunder. The permit issued hereunder shall not be transferable from the permit holder to another person, nor from one physical location to another. The permit issued hereunder shall not be leased or subleased to another person.

#### Sec. 78-415. Pushcart locations.

The Sidewalk Vendor Committee shall designate locations where pushcarts are permitted. A person may apply for multiple pushcart permits, but no person shall be assigned more than 50% of the locations designated by the Sidewalk Vendor Committee. Permits for the designated locations shall be issued on a "first come, first served" basis, provided the applicant complies with applicable requirements prior to the issuance of the permit. The Sidewalk Vendor Committee shall also consider, and approve or deny, other locations proposed by applicants. Permit holders are subject to relocation when their designated location is deemed to cause a hazard to public safety, sight distance, or vehicular congestion or other concerns by the City-Parish Consolidated Government. Permit holders relocated under the provisions of this section shall not be required to pay a relocation fee.

#### Sec. 78-416. Penalties.

- (1) Penalties for violations of Division II of this article shall be as follows:
  - (a) For the first offense, there shall be issued a written warning by the Customer Service Division, granting the permit holder an opportunity to remedy the violation within a reasonable time as determined by the Customer Service Division.
  - (b) For the second offense, the penalty shall be a fine in the amount of fifty (\$50) dollars.
  - (c) For the third and subsequent offenses, the penalty shall be a fine in the amount of one hundred (\$100) dollars.
- (2) For purposes of the progressive fines set forth in this section, prior offenses will be counted for a period of three years from the date of the offense, and will not be counted after the lapse of three years from the date of the offense.
- (3) Fines imposed in accordance with this section shall be deemed to be civil fines and shall be charged to the responsible party.
- (4) Individuals designated by the Customer and Support Services Manager shall be authorized to conduct inspections of public and commercial properties in order to determine compliance with the provisions of this article and issue citations to responsible parties deemed to be in violation thereof.
- (5) When a fine is imposed under this section, the responsible party shall be given a citation containing notice of his right to a hearing before the Customer and Support Services Manager. Such citation shall inform the responsible party of the reasons for which he is fined. Such citation either shall be delivered personally to the responsible party or shall be sent by registered or certified mail to the responsible party's address as reflected on the application.

Sec. 78-417. Suspension and revocation.

- (1) A permit issued hereunder may be suspended for up to one hundred eighty (180) days or revoked by the Customer Service Division if it is found that:
  - (a) The permit holder fails to meet the requirements prescribed in this article;
  - (b) The permit holder violates any provision of Division II of this article;
  - (c) The holder of the permit violates any federal, state or local law, whether criminal or civil in nature, while engaged in the activity permitted under this article; or
  - (d) Any necessary business, building, zoning, alcohol or health license or permit is suspended, cancelled or revoked.
- (2) Before any permit issued hereunder is suspended or revoked, the holder thereof shall be given notice of his right to a hearing before the Customer and Support Services Manager. Such notice shall inform the permit holder of the reasons for which the Customer Service Division proposes to suspend or revoke the permit and shall inform the permit holder that, unless a hearing is requested in writing within ten (10) days from the date the notice is sent, the Customer Service Division will suspend or revoke the license. Such notice either shall be delivered personally to the permit holder or shall be sent by registered or certified mail to the permit holder's address as reflected on the application. In the event a hearing is not requested within ten (10) days of the date such notice is sent, the

Customer Service Division may proceed forthwith to suspend or revoke the permit.

- (3) When the Customer Service Division receives a timely written request for hearing before the Customer and Support Services Manager, such hearing shall be held within ten (10) days from the date of its receipt. After the hearing, the permit holder shall be notified within a reasonable time of the Customer and Support Services Manager's decision. Such notice shall be in writing and either shall be delivered personally to the permit holder or shall be sent by registered or certified mail to the permit holder's address as reflected on the application. If this decision is not appealed in accordance with Section 78-418, the Customer Service Division may proceed forthwith to suspend or revoke the permit.
- (4) Upon revocation of a permit issued hereunder, the permit holder shall not be issued another permit during the eighteen months subsequent to the date of the revocation.

Sec. 78-418. Appeals of fines and suspension or revocation of permits.

- (1) Citations issued by the Customer Service Division, and decisions of the Customer and Support Services Manager regarding permit suspensions and revocations, may be appealed by requesting a hearing with the City-Parish Consolidated Government Parking Adjudication Bureau (hereinafter, "Parking Adjudication Bureau").
- (2) Any person requesting a hearing with the Parking Adjudication Bureau shall notify the Public Parking Administrator of the Department of Traffic and Transportation of the City-Parish Consolidated Government in writing within ten (10) days of receipt of the citation or notice of the decision of the Customer and Support Services Manager. A copy of the request shall be forwarded to the Customer Service Division the day following its receipt.
- (3) Every hearing with the Parking Adjudication Bureau shall be held before a hearing examiner of the Parking Adjudication Bureau. The person requesting the hearing shall have the burden of proving that the citation or decision was improper by a preponderance of evidence.
- (4) The Parking Adjudication Bureau shall have the authority with regard to matters brought before it under this section:
  - (a) To hear appeals of citations issued by the Customer Service Division.
  - (b) To hear appeals of decisions of the Customer and Support Services Manager regarding permit suspensions and revocations.
  - (c) To issue subpoenas to compel the attendance of a person to give testimony at hearings and to compel the production of relevant books, papers, and other things.
- (5) The Parking Adjudication Bureau shall render an administrative adjudication of the charges pursuant to the provisions for administrative adjudications by the Parking Adjudication Bureau contained in the Lafayette City-Parish Consolidated Government Code of Ordinances, Chapter 86, Traffic and Vehicles.

Sec. 78-419. No vested rights in license or permit.

The City-Parish Consolidated Government reserves the right to amend or repeal this article at any time, and no person shall have any vested rights to operate hereunder or to retain a permit or have a permit renewed. In the event the amendment or repeal of this article results in a permit being valid for less than its full term, the pro rata portion of the permit fee or renewal fee for the invalid portion of the term shall be refunded.



DIVISION II. PERMITTED ACTIVITIES

Sec. 78-431. Pushcarts.

All pushcarts and their operators shall meet the following requirements:

- (1) The permit issued to operate a pushcart shall give authority to one person to engage in the permitted activity. Permit holders who operate pushcarts may designate a maximum of two assistants, associates or employees who shall be employed by such person. In the event that such permit holder designates more than two assistants, associates or employees, then the permit fee provided for in Section 78-409 shall be increased by the sum of \$25.00 for each additional assistant, associate or employee.
- (2) Permit holders who operate pushcarts, and their assistants, associates or employees designated under this section, shall be issued photographic identification which must be displayed with the permit at all times in accordance with Section 78-413.
- (3) The pushcart shall not be motorized or propelled in any manner other than the walking motion of the person operating the pushcart, with the exception that persons with physical disabilities may use a motorized system to propel the pushcart. No motorized assistance shall be used to locate the pushcart on the sidewalk or public place, with the exception that persons with physical disabilities may use motorized assistance.
- (4) The pushcart shall be covered with an appropriate material to prevent exposure of the food to wind, dust, insects and the elements. The pushcart operator shall comply with all state and local health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food preparation and service. The pushcart operator shall display, in plain view, all required permits as set forth by federal, state and local laws and shall provide a copy of health department or other regulatory agency permits and/or licenses to the City-Parish Consolidated Government prior to the issuance of a permit by the City-Parish Consolidated Government for the pushcart. The pushcart operator shall continuously maintain the required approvals, permits and/or licenses and provide evidence to the City-Parish Consolidated Government of the continuous maintenance thereof.
- (5) The pushcart shall be set up only in the location set forth on the permit, and shall not impede, endanger or interfere with pedestrian or vehicular traffic.
- (6) The pushcart shall be located on the sidewalk at a minimum of five feet from the street curb or landscaping bed. In addition, the location of the pushcart must provide a minimum of three feet of continuous unobstructed pedestrian passageway on the sidewalk at all times.
- (7) The pushcart shall not be stored, parked or left overnight on any public street or sidewalk or in any public parking space.
- (8) The pushcart, and any item related to the operation of the pushcart, shall not be attached, chained, or in any manner affixed to any tree, post, sign, parking meter or other fixtures, curb or sidewalk.
- (9) No item related to the operation of the pushcart shall be placed on the street, sidewalk, public place or anywhere other than in or on the pushcart.
- (10) The pushcart shall have attached to it a proper container for the collection of waste and trash. The pushcart operator shall be responsible

for the proper disposal of waste and trash associated with the pushcart operation. No grease, waste, trash or other debris from the pushcart operation shall be deposited on or released onto public property, which includes streets, sidewalks or other public place, nor into the gutter or storm drainage system. The pushcart operator shall keep the immediate area in a five foot radius from the center of the pushcart clean of garbage, trash, paper, cups, cans or litter associated with the pushcart operation. Unless otherwise permitted by the City-Parish Consolidated Government, a pushcart operator shall not locate a container for the collection of waste and trash on the streets, sidewalks or public places, nor use city trash receptacles or other city waste disposal containers for the disposal of waste and trash associated with the pushcart operation.

- (11) The pushcart shall not have attached to it any bell, siren, horn, loudspeaker, flashing lights or any similar device to attract the attention of possible customers, nor shall the pushcart operator use any such device to attract attention.
- (12) Signs attached to the pushcart shall comply with the guidelines and standards established by the Sidewalk Vendor Committee.
- (13) Pushcart operators shall not consume or be under the influence of alcohol or controlled substances while operating the pushcart.
- (14) The pushcart shall be operated only at times between the hours of 7:00 o'clock a.m. and 12:00 o'clock midnight.
- (15) The pushcart operator shall be in attendance at the pushcart at all times, except in case of an emergency.
- (16) The pushcart operator shall comply with all federal, state and local laws when operating the pushcart.
- (17) Design and dimensions of pushcarts will be approved by the Sidewalk Vendor Committee.
- (18) The permit may be suspended by the Customer Service Division when necessary to clear sidewalk areas for a special event. The notification of suspension shall list the date, time and estimated duration of such suspension.
- (19) In the event of an emergency or in a situation where exigent circumstances arise, a pushcart operator shall remove the pushcart from the sidewalk when directed to do so by any law enforcement officer, fire official or emergency medical personnel.
- (20) The City-Parish Consolidated Government may require the temporary removal of pushcarts when street, sidewalk, or utility repairs necessitate such action.
- (21) The issuance of a pushcart permit does not grant or infer vested rights to the use of the designated location by the permit holder.

#### Sec. 78-432. Outdoor Dining Areas

Permits for outdoor dining areas shall only be issued to restaurants. Permit holders for outdoor dining areas and their employees shall meet the following requirements:

- (1) The permit holder shall set up the outdoor dining area, including, but not limited to, the furniture, canopies, roping and/or other accessories used for the outdoor dining area, only in the area designated on the permit, specifically excluding roadways. The outdoor dining area shall not impede, endanger or interfere with pedestrian or vehicular traffic.
- (2) Furniture, canopies, roping and/or other accessories used for the outdoor dining area shall be located on the sidewalk at a minimum of five feet

from the street curb or landscaping bed. In addition, the furniture, canopies, roping and/or other accessories used for the outdoor dining area shall be located so as to provide a minimum of three feet of continuous unobstructed pedestrian passageway on the sidewalk at all times.

- (3) All property/building ingress and egress where an outdoor dining area is located must remain unobstructed for clear, barrier-free pedestrian passage, consistent with the fire department regulations.
- (4) All tables, chairs, restaurant fixtures, and any other tool, service equipment and obstructions associated with the sidewalk cafe shall be promptly removed from the area at the close of the business each day.
- (5) No tables and chairs nor any other parts of the sidewalk cafe shall be attached, chained, or in any manner affixed to any tree, post, sign, parking meter or other fixtures, curb or sidewalk within or near the outdoor dining area.
- (6) The outdoor dining area may only be located immediately adjacent to the wall of a building, not along the street curb.
- (7) The outdoor dining area shall be restricted to the sidewalk frontage of the restaurant establishment to which the permit is issued.
- (8) The permit holder shall keep the immediate area around the outdoor dining area and the outdoor dining area clean of, and properly dispose of, all trash or litter associated with the operation of the outdoor dining area. The permit holder shall not locate a container for the collection of waste and trash on the streets, sidewalks or public places, nor use city trash receptacles or other city waste disposal containers for the disposal of waste and trash associated with the outdoor dining area.
- (9) The permit holder shall comply with all state and local health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food preparation and service. The permit holder shall display on the premises of the restaurant, in plain view, all required permits as set forth by federal, state and local laws and shall provide a copy of health department of other regulatory agency permits and/or licenses to the City-Parish Consolidated Government prior to the issuance of a permit by the City-Parish Consolidated Government. The permit holder shall continuously maintain the required approvals, permits and/or licenses and provide evidence to the City-Parish Consolidated Government of the continuous maintenance thereof.
- (10) The permit holder shall be responsible for the maintenance, upkeep, and security of the furniture and accessories of the outdoor dining area and the City-Parish Consolidated Government shall not be responsible for the same.
- (11) The permit holder shall not have on the premises any bell, siren, horn, loudspeaker, flashing light or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.
- (12) The sidewalk area shall not be painted or altered in any way by the permit holder.
- (13) Employees of the permit holder shall not consume or be under the influence of alcohol or controlled substances while working in the outdoor dining area.
- (14) A permit holder may serve alcoholic beverages within the outdoor dining area if the permit holder has a class "R" permit from the Louisiana Office of Alcohol and Tobacco Control and the outdoor dining area is clearly defined in the manner prescribed by the Sidewalk Vendor Committee.

However, no bar shall be located within an outdoor dining area, and no beer, wine or liquor bottles made of glass shall be provided to customers within the outdoor dining area.

- (15) The permit holder shall not violate the prohibitions on noise as set forth in Chapter 34, Article IV.
- (16) An outdoor dining area shall be operated only at times between the hours of 7:00 o'clock a.m. and 12:00 o'clock midnight.
- (17) In the event of an emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the sidewalk when directed to do so by any law enforcement officer, fire official or emergency medical personnel.
- (18) The City-Parish Consolidated Government may require the temporary removal of outdoor dining areas when street, sidewalk, or utility repairs necessitate such action.
- (19) The issuance of an outdoor dining area permit does not grant or infer vested rights to the use of the outdoor dining area by the permit holder.

#### Sec. 78-433. Outdoor merchandise display areas

Permits for outdoor merchandise display areas shall only be issued to retail shops. Permit holders for outdoor merchandise display areas and their employees shall meet the following requirements:

- (1) The permit holder shall set up the outdoor merchandise display area, including, but not limited to, the merchandise and the fixtures or devices on which it is displayed, only in the area designated on the permit, specifically excluding roadways. The outdoor merchandise display area shall not impede, endanger or interfere with pedestrian or vehicular traffic.
- (2) Merchandise and the fixtures or devices on which it is displayed shall be located on the sidewalk at a minimum of five feet from the street curb or landscaping bed. In addition, the merchandise and the fixtures or devices on which it is displayed shall be located so as to provide a minimum of three feet of continuous unobstructed pedestrian passageway on the sidewalk at all times.
- (3) All property/building ingress and egress where a outdoor merchandise display area is located must remain unobstructed for clear, barrier-free pedestrian passage, consistent with the fire department regulations.
- (4) All merchandise and the fixtures or devices on which the merchandise is displayed shall be moved inside the building or structure wherein the retail business is located during hours the retail business is not operated.
- (5) No fixtures, devices or any other parts of the outdoor merchandise display area shall be attached, chained, or in any manner affixed to any tree, post, sign, parking meter or other fixtures, curb or sidewalk within or near the permitted area.
- (6) The outdoor merchandise display area may only be located adjacent to the wall of a building, not along the street curb.
- (7) The outdoor merchandise display area shall be restricted to the sidewalk frontage of the retail business to which the permit is issued.
- (8) Merchandise and the fixtures or devices on which the merchandise is displayed must not block regulatory signs, crosswalks or intersections and shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage alongside the outdoor merchandise display area.

- (9) All merchandise located within an outdoor merchandise display area shall be placed so that the outdoor merchandise and the fixtures or devices on which the merchandise is displayed are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public.
- (10) All displays of merchandise within the outdoor merchandise display area must be of such a size or height that safe pedestrian traffic is not endangered.
- (11) All merchandise and the fixture, or devices on which the merchandise is displayed must be secured so that it may not be dislodged during inclement weather prior to being moved inside the building or structure wherein the retail business is located.
- (12) The permit holder for the outdoor merchandise display area shall be responsible for keeping the outdoor merchandise display area clean of all trash or litter associated with the operation of the outdoor merchandise display area.
- (13) The permit holder for the outdoor merchandise display area shall be responsible for the maintenance, upkeep and security of the fixtures or devices on which the merchandise is displayed and the City-Parish Consolidated Government shall not be responsible for the same.
- (14) The permit holder for the outdoor merchandise display area shall not have on the premises any bell, siren, horn, loudspeaker, flashing lights or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.
- (15) Signs located in the outdoor merchandise display area shall comply with the guidelines and standards established by the Sidewalk Vendor Committee.
- (16) Employees of the permit holder shall not consume or be under the influence of alcohol or controlled substances while working in the outdoor merchandise display area.
- (17) All sales shall take place inside the retail shop and not in the outdoor merchandise display area.
- (18) In the event of an emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the sidewalk when directed to do so by any law enforcement officer, fire official or emergency medical personnel.
- (19) The City-Parish Consolidated Government may require the temporary removal of outdoor merchandise display areas when street, sidewalk, or utility repairs necessitate such action.
- (20) The issuance of an outdoor merchandise display area permit does not grant or infer vested rights to the use of the outdoor dining area by the permit holder.

Secs. 78-434 – 78-450 Reserved.”

**SECTION 3:** All ordinances or resolutions or parts thereof in conflict herewith are hereby repealed.

**SECTION 4:** This ordinance shall become effective upon the signature of the Lafayette City-Parish President, the elapse of ten (10) days after receipt of the Lafayette City-Parish President without signature or veto, or upon override of a veto, whichever occurs first.