

21.150

**SIDEWALK SEATING
CITY OF GAYLORD, MICHIGAN
ADOPTED June 25, 2018**

An ordinance to regulate sidewalk seating throughout the City of Gaylord.

THE CITY OF GAYLORD ORDAINS:

21.151

Sec. 1. **PURPOSE**

Residents and visitors in the City have longed enjoyed outdoor seating at establishments in the downtown district. The City Council finds that regulation is necessary to promote and protect the public health, safety, and general welfare of the community. Specifically, outdoor seating will attract individuals to the downtown; provide additional seating to downtown businesses in a safe and aesthetic manner; ensure adequate space for pedestrians and vehicles; protect access to adjacent buildings; and enhance the City's tax revenue by promoting a desirable use.

21.152

Sec. 2. **DEFINITIONS**

1. **Outdoor Seating:** Readily removable tables, chairs, benches, stools, as well as accessory items such as table umbrellas, railings, posts and planters.
2. **Person:** An individual or business entity.
3. **Sidewalk Seating:** Outdoor seating on a public sidewalk or other public right-of-way provided by an adjacent establishment, and used by that establishment to provide food or beverages to its patrons for immediate consumption. This includes outdoor seating provided as courtesy seating with waitstaff service, or as part of a sidewalk café.

21.153

Sec. 3. **PERMIT REQUIRED**

No person shall maintain sidewalk seating within the City of Gaylord without having a valid permit under this ordinance.

21.154

Sec. 4. **PERMIT PROCESS**

1. **Application.** Any person who desires to provide sidewalk seating must submit a complete application to the City Zoning Administrator. Applications will be made available at the Gaylord City Hall and must be in a form approved by the City Manager and consistent with the requirements of this ordinance.
2. **Fee Required.** The application must be submitted with a fee as established by the City Council.

3. **No Property Right.** The issuance of a permit under this ordinance does not convey or confer any property right on the applicant.
4. **Required Information.** The application must provide the following information:
 - a. The applicant's mailing address, business location and contact information.
 - b. The dates and hours of occupancy.
 - c. A detailed description of the outdoor seating, including the numbers of tables, chairs and other items.
 - d. A site sketch on not smaller than 8 ½" x 11" paper containing, at minimum, the following items:
 - i. The boundaries of lot where the applicant's place of business is located, with dimensions.
 - ii. The boundaries of the area within the public right-of-way area that the applicant proposes to use for sidewalk seating, with dimensions.
 - iii. The ingress and egress points of pedestrian travel, with the widths of walking area.
 - iv. The location of all proposed outdoor seating.
 - e. Approval of the Michigan Liquor Control Commission, if applicable.
 - f. All Michigan Department of Transportation permits, if applicable.
 - g. A copy of certificate of insurance for the business operation, as required by this ordinance.
 - h. If the business operates at a location owned by someone other than the applicant, the written permission of the property owner.
 - i. A statement that the information provided is true and accurate, that the proposed use complies with all requirements of this ordinance, and that the sidewalk seating will be kept in compliance with this ordinance during the term of the permit.
5. **Review Process.** The application must be submitted to the City Zoning Administrator for review and initial approval. The City Zoning Administrator may not grant approval unless the Application contains all of the information required under this section, and will comply with all the standards set forth in this ordinance. Any permits for the M-32 or BL I-75 corridor require approval by the City Council.

6. **Term.** A permit issued under this section is valid from March 15 to November 7 in the year of issuance.
7. **Renewal.** A permit may be renewed upon the same procedure as it was initially approved.
8. **Amendment.** Sidewalk seating must remain consistent with the sketch provided in the original application throughout the term of the permit, unless a change consistent with this ordinance is approved in writing by the City Zoning Administrator.
9. **Revocation.** The City Zoning Administrator may revoke the permit of any person who violates a provision of this ordinance. Upon revocation, the City Zoning Administrator shall promptly cause a written notice to be sent to the permit holder at the mailing address stated in the application. The permit holder shall remove all outdoor seating within 48 hours after the revocation.
10. **Hearing.** Any person who has an application denied or a permit revoked under this section may, within 10 days of the adverse action, file a written request for a hearing before the City Council. The City Council may take whatever action it deems appropriate consistent with this ordinance.

21.155

Sec. 5. OPERATIONS RESTRICTIONS

A permit holder under this ordinance shall comply with all of the following restrictions and requirements:

1. **Time.** Sidewalk seating is not permitted between 1:30 a.m. and 7 a.m. During that time, all outdoor seating must be removed from the public right-of-way.
2. **Location.** Sidewalk seating must be located adjacent to its associated establishment.
3. **Public Access.** Sidewalk seating must allow no less than 40 inches in width of unobstructed public walkway through a non-decorative sidewalk area. In any event, sidewalk seating may not unreasonably obstruct pedestrian, bicycle or motor vehicle traffic through any public right-a-way.
4. **Barriers.** To separate patrons from pedestrians in the public right-of-way, sidewalk seating must be delineated by a visible boundary to the satisfaction of the City Zoning Administrator. This may include tape, paint, or other temporary markings. If the outdoor seating is serviced by waitstaff the boundaries must be physical barriers. Physical barriers may include planters, panels, railing, rope, or posts.

5. **Public Facilities.** Sidewalk seating must not interfere with any public service facility or amenity, such as a telephone, mailbox, hydrant, drain, flowerbox, bench, ramp, landing area, curb, crosswalk, or bump out.
6. **Public Events.** Sidewalk seating must be suspended during a public event or festival if the City Zoning Administrator determines that the sidewalk seating would cause interference.
7. **Rubbish.** Sidewalk seating must remain clear of litter, food scraps, and soiled dishes at all times.
8. **Alcohol.** Alcoholic beverages will only be prepared within the existing food establishment and only served to patrons seated at tables. A permit holder shall comply with all laws and regulations concerning the serving of alcoholic beverages in this state.
9. **Food Preparation.** No food shall be prepared in the sidewalk seating area. All food preparation shall be completed within the adjacent food establishment.
10. **Trash Containers.** The permit holder will not use, or permit patrons to use, city trash containers for disposing of garbage or waste.
11. **Advertising.** Advertising on umbrellas or railings is prohibited.
12. **Maintenance.** All outdoor seating must be of quality design, materials, and workmanship to ensure patrons' safety and to enhance the visual and aesthetic quality of the area. The permit holder must routinely clean all outdoor seating and keep it in good working order.
13. **Insurance.** A permit holder must provide the City Zoning Administrator with a certificate of insurance in an amount as established by the City Council. The certificate must name the City as an additional insured with written notice prior to any cancellation, and remain in effect for the term of the permit.

21.156

Sec. 6. VIOLATIONS

Any person who provides sidewalk seating in the City of Gaylord without a valid permit under this ordinance, or who violates any provision of this ordinance, shall be responsible for a municipal civil infraction punishable by a civil fine of not more than five hundred and 00/100 (\$500.00) dollars and the costs of prosecution. Further, the City Zoning Administrator may revoke any permit issued, or deny an application for any violation or past violation of this ordinance, regardless of whether the permit holder or applicant has been cited, paid a civil fine, or been found responsible for violation.

21.157 Sec. 7. **SEVERABILITY**

The provisions of this ordinance are severable. If any part is declared void or unenforceable for any reason, the remaining portions of the ordinance shall remain in effect.

21.158 Sec. 7. **EFFECTIVE DATE.**

This Ordinance shall take effect after legal publication in accordance with the City Charter.

Effective: July 15, 2018