

ORDINANCE 2015 - 14



ORIGINAL

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, AMENDING TITLE 17.48 OF THE SUNNYSIDE MUNICIPAL CODE, PERTAINING TO SIDEWALK CAFES

WHEREAS, the City Council of the City of Sunnyside has encouraged the study of issues pertaining to the standards for Outdoor Seating; and

WHEREAS, the Sunnyside Planning Commission has held a public hearing on such issues, including a public hearing on May 27, 2015, and has received and considered all evidence and testimony offered therein; and

WHEREAS, the Sunnyside Planning Commission has thereafter recommended adoption of Sidewalk Cafes standards by the City Council of the City of Sunnyside, which ordinance would amend Title 17.48 of the Sunnyside Municipal Code ("SMC" herein) by permitting Sidewalk Cafes; and

WHEREAS, in accordance with the provisions and procedures of Title 19 SMC, the City Council has received the recommendation of the Sunnyside Planning Commission, who has scheduled and held a hearing on such recommendation, and having received all evidence and testimony therein, adopts the following findings: and

WHEREAS, the City Council finds and determines that Title 17.48 SMC should be amended to include sidewalk cafes as set forth in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the City Council finds and determines that such enactment is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

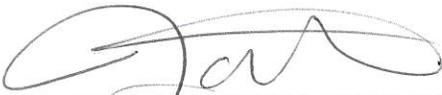
NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

Section 1. Title 17 SMC is hereby amended to revise Chapter 17.48 SMC, as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

Section 2. Except as amended herein, Title 17 SMC shall remain unchanged.

Section 3. This Ordinance shall be effective five (5) days after passage, approval and publication as required by law.

PASSED this 13th day of July, 2015.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

**Chapter 17.48
B-3 – RETAIL CORE ZONE**

Sections:

- 17.48.010 Purpose.
- 17.48.020 Permitted uses.
- 17.48.025 Permitted uses – Dance halls.
- 17.48.030 Dimensional standards.
- 17.48.040 Yards.
- 17.48.050 Parking and loading.

17.48.010 Purpose.

The purpose of this zone is to provide for the high-density grouping of businesses with similar and complementary location needs. These include retail business, government services, and recreational or cultural activities. It is also the purpose of this zone to create an attractive and imaginative intermix of these uses through the creation of a pedestrian-oriented environment which will enhance shopping and develop a focal point of activity and interest. [Ord. 1272 § 17-3-9, 1980.]

17.48.020 Permitted uses.

The following are permitted uses in the B-3 zone:

1. Alcohol beverage retail sales;
2. Amusement enterprises: billiards, pool, bowling, roller rink, dance hall, theater and the like, subject to the restrictions and definitions contained in SMC 17.48.025;
3. Art supply retail sales;
4. Automobile, bicycle, boat, snowmobile and motorcycle sales lots, new and used and accessory sales, including service facilities when conducted entirely within an enclosed building;
5. Bakery shops and confectioneries;
6. Banks, finance and loan companies;
7. Barber, beauty and other personal services;
8. Clothing and furniture sales;
9. Department and variety stores;

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10. Drugstores;
11. Dry-cleaning, pressing and dyeing plants operated in conjunction with retail service counter;
12. Eating and drinking establishments;
13. Florists, retail;
14. Food stores (retail only): grocery, delicatessen, meat and fish, but excluding the killing or dressing of any flesh or fowl;
15. Hardware, appliance and electrical items, retail sales;
16. Libraries, museums and art galleries;
17. Music stores;
18. Newspaper, radio and television stations and job-printing establishments;
19. Office buildings, government and private;
20. Office equipment and supplies, sales and service;
21. Paint retail sales;
22. Photographic studios and camera supply stores;
23. Shoe repair shops;
24. Sporting goods sales;
25. Specialty shops;
26. Tailors, dressmakers, milliners;
27. Upholstery, paperhanging and decorator shops and the like;
28. Those special property uses allowable in the B-3 zone as specified in SMC 17.64.020;
29. Outside display of merchandise in a B-3 zone shall be permitted, subject to the condition that the display of merchandise shall be placed on the sidewalk in such a manner so as to provide an unencumbered path for pedestrian traffic on said sidewalk, with the path being of a minimum width of four

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and one-half feet, and so as not to otherwise interfere with or obstruct the flow of pedestrian traffic on the sidewalk outside of the store, or general ingress or egress to the door of the store; provided, however, that the outside display of merchandise shall be limited to occur with a frequency of no more than eight days per month; further provided, that City-wide merchandise events shall not be included among the eight days per month. The merchant or merchants seeking to display merchandise on the City sidewalks shall obtain a permit for the same from the Planning Division office;

30. Pet stores, as defined in SMC 17.04.030;

31. On-site hazardous waste treatment and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the State siting criteria adopted pursuant to the requirements of RCW 70.105.210;

32. Sidewalk Café a permitted area within the public right-of-way consisting of tables and chairs where patrons may be served food and beverages from an adjacent café restaurant or tavern. A merchant shall be permitted to operate a sidewalk cafe on that portion of any sidewalk in front of or alongside of his or her place of business in the B-3 zone, subject to the following conditions:

A. Permit Application. An applicant must provide the following before a sidewalk cafe permit can be issued:

i. The anticipated periods of use during the year and the proposed hours of daily use, including Saturdays, Sundays, and holidays;

ii. Whether any liquor, as defined in RCW 66.04.010, will be sold or consumed in the area to be covered by the permit;

iii. Procure and maintain liability insurance naming the city of Sunnyside as additional insured in the amount of one million dollars;

iv. Payment of a nonrefundable fee in the amount to be set by resolution of the city council; and

v. Such permit shall be valid for twelve months after it is issued.

B. Terms and Conditions.

i. The City Manager or his designee may issue a permit for use of a sidewalk for sidewalk cafe purposes in the event and to the extent that he or she determines that:

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(a) The applicant is the owner or occupant of the abutting property and operates a cafe, restaurant, or tavern thereon;

(b) The location of the sidewalk cafe shall not reduce or obstruct pedestrian passage on the sidewalk to less than four feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings, parked vehicles, and other similar devices and structures. Furthermore, such placement shall be consistent with any applicable standards established by the Americans with Disabilities Act and shall not obstruct vehicular traffic or parking or the use of any crosswalk, wheelchair ramp, bus or taxi zone; and

(c) The proposed sidewalk cafe area is included within a food-service establishment permit issued by the applicable authorities.

C. The City Manager may include such terms and conditions in the permit as he/or she may deem appropriate, including but not limited to:

i Restrictions as to the number and placement of tables and chairs, condition of the tables and chairs and as to the hours and dates of use;

ii A requirement that the area be cleared when not in use as a sidewalk cafe, or upon the order of the public works director or other appropriate city officer such as the chief of police or fire chief or their authorized representatives;

iii Provisions that the permittees shall maintain the sidewalk in a clean and safe condition for pedestrian travel, including nightly cleansing of sidewalk;

iv A requirement that the applicant clear the sidewalk as may be necessary to accommodate deliveries to abutting or other nearby properties;

v Regulations upon lighting and illumination of the sidewalk cafe, limitations upon noise, prohibition of exterior power supplies and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;

vi If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate modifications to the sidewalk in the immediate vicinity in order to accommodate the change or to assure compliance with the Federal Americans with Disabilities Act;

vii Restoration of the sidewalk upon completion of the use each business day.

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viii Unless expressly authorized by the public works director, no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind shall be installed in or on sidewalk area in connection with a sidewalk cafe.

ix. The City Manager may suspend or revoke the permission granted if an applicant violates this chapter, any implementing rules, or the terms and conditions of the permit.

x. Liquor, as defined in RCW 66.04.010, as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized in both the use permit and provided for in this chapter and by permit of the Washington State Liquor Control Board, and not otherwise. Service of liquor shall be in compliance with requirements of the Washington State Liquor Control Board and also served in disposable or otherwise non-breakable containers so as to prevent broken glass on the sidewalk.

D. Sidewalk Condition. The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the public works director or other appropriate city officer such as the chief of police, fire chief or their authorized representatives.

17.48.025 Permitted uses – Dance halls.

Dance halls, as defined in SMC 5.28.010, are permitted uses in the B-3 zone but may not be located within 200 feet from any area zoned R-1, R-1M, R-2, R-3, M-H or other residential zoning district hereafter adopted; provided, however, that this restriction shall not apply to any use made exempt pursuant to SMC 5.28.010(F). [Ord. 2010-28 § 6, 2010; Ord. 2009-29 § 6, 2009.]

17.48.030 Dimensional standards.

The dimensional standards for the B-3 zone are:

- A. Minimum lot area: no required lot size for nonresidential uses;
- B. Minimum width: no required lot width for nonresidential uses;
- C. Maximum building height: 45 feet for all uses;
- D. Maximum land coverage: no limitations;
- E. Minimum floor area: no required minimum for nonresidential uses;

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F. In connection with and consistent with the "Sunnyside Downtown Heritage Village" design plan, any improvement, modification, addition or alteration to buildings within the Retail Core zone (B-3) shall be permitted to encroach over and onto the City right-of-way a distance of not more than 12 inches subject to plan and construction review by the City's Building Department for consideration of factors including, but not limited to, construction methods, safety and compatibility/ compliance with the Sunnyside downtown design plan. [Ord. 1721, 1990; Ord. 1272 § 17-3-9.2, 1980.]

17.48.040 Yards.

There is no required yard area. [Ord. 1271 § 17-3-9.3, 1980.]

17.48.050 Parking and loading.

That portion of the retail core area known previously as B-1 zone and as defined in the official zone map adopted May 16, 1960, is exempt from the off-street parking and loading requirements as provided in SMC 17.64.030. [Ord. 1272 § 17-3-9.4, 1980.]