

CHAPTER 9.50

Outdoor Dining

Sections:

09.50.005 Purpose

09.50.010 Definitions

9.50.020 General Outdoor Dining Requirements

9.50.030 Sidewalk Dining Requirements

9.50.040 Parking Space Dining Requirements

9.50.050 Alleyway Dining Requirements

9.50.005 PURPOSE:

The purpose of the ordinance is to designate the specific parameters by which a restaurant or café (“Restaurant”) located in Fairfield’s Central Business District may serve food and alcoholic beverages for immediate consumption outside of their establishment in one or more of the following locations: (1) on the sidewalk immediately in front of their establishment (“Sidewalk Dining”) (2) in the designated parking spaces immediately in front of their establishment (“Parking Space Dining”); or, (3) in the public alleyway adjacent to their establishment (“Alleyway Dining”). Each of these three options shall be referred to as a designated “Outdoor Dining Area.”

9.50.010 DEFINITIONS:

For the purposes of this chapter, unless the context otherwise requires:

- (1) “Restaurant” means any eating establishment having seating capacity which sells or offers for sale to the public any food and beverages for immediate human consumption on the premises, and includes any coffee shop, cafeteria, short order cafe, luncheonette, or dining room.
- (2) “Outdoor Dining Area” shall mean a designated area outside the principal building where patrons may sit at tables while consuming food and beverages ordered from and/or served by a waiter or waitress.
- (3) 9.68.010 Nuisances enumerated. (a) The following acts are declared to be nuisances within the city: (1) The erecting, continuing, or use of any building, land, or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive 81 (Fairfield 9/09) 9.68.010 smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public; (2) The causing or allowing to remain any offal, filth or any noisome or odorous substance detrimental or offensive to others; (3) The maintaining of any building, structure, lumber pile, debris, or other place of whatsoever nature which may unnecessarily harbor mice, rats or other vermin or rodents; (4) The obstructing or encumbering by fences, buildings, debris or any other object the public roads, rights-of-way, public alleys, public parks, or any other public property or land.

9.50.020 GENERAL OUTDOOR DINING REQUIREMENTS:

The following general requirements shall apply to each of the three Outdoor Dining options established and regulated.

- a. The Outdoor Dining Area contains tables, chairs, or benches, railings, planters or fencing, outdoor heating, umbrellas, as applicable, as referenced in the City's adopted Outdoor Dining Design Guidelines; and, if the establishment serves alcohol, the area must be enclosed by a railing (to meet State of Iowa Liquor Control confined/limited access area expectation) as defined by the City's adopted Outdoor Dining Design Guidelines.
- b. The Outdoor Dining area shall not encompass nor interfere with any public service facility, such as a telephone pole, light post, traffic signal, tree, planter, mailbox, or bench located on a sidewalk or public property. An Outdoor Dining area may be designed in such a way to incorporate a light post or street tree as these are numerous and permanent fixtures of the streetscape. Any design that incorporates a light post or street tree is subject to review by the City.
- c. Outdoor Dining Areas shall remain clear of litter, food scraps, and soiled dishes, so as not to create a nuisance. Garbage and trash receptacles shall be moved indoors each evening.
- d. Outdoor Dining areas must comply with the requirements of the Iowa Food Code.
- e. Operation of an Outdoor Dining area shall not adversely impact adjacent or nearby properties and shall be in accordance with all applicable codes and regulations.
- f. In accordance with Iowa Code 142D: The Smokefree Air Act, smoking shall not be permitted in Outdoor Dining areas.
- g. Alcoholic beverages to be served at Outdoor Dining area shall be prepared within the Restaurant and shall not be served prior to 11:00 A.M.
- h. The Restaurant shall take all necessary action to procure the appropriate license or permit to serve alcoholic beverages at the Outdoor Dining area and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the State of Iowa. Railing or Fence consistent with the City's adopted Outdoor Dining Design Guidelines is mandatory for such area.
- i. All food to be served at an Outdoor Dining Area shall be prepared within the Restaurant unless approved by the Fairfield City Council as part of a special event application request.
- j. The Restaurant shall not serve food or beverages to a patron at the Outdoor Dining area unless that patron is seated at a table.
- k. No animals are permitted in dining area with exception of service animals.
- l. Outdoor dining areas must be free from open flames. Enclosed propane heat lamps are exempted.
- m. The maintenance of an Outdoor Dining area shall be the responsibility of the Restaurant, including but not limited to, surface treatment and cleaning, litter control, sweeping, and snow and ice removal. The sidewalk and public property shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or public property or cause pedestrian injury. The contents of an Outdoor Dining area shall be reasonably secured to prevent damage to property or pedestrians during periods of high winds.
- n. The Restaurant shall assume full responsibility for damage to public property caused by the placement and operation of an Outdoor Dining area. The Restaurant shall also repair any damage to public property at its own expense in a timely manner, including but not limited to, damages to the public right away due to the placement of any anchored fencing.

- o. The Restaurant shall hold the City of Fairfield harmless for any damage to Outdoor Dining area contents or structures.
- p. Prior to serving food and/or beverages at an Outdoor Dining area, the Restaurant must apply for and receive a permit from the city administrator to operate such Outdoor Dining area.
- q. Each permit application for an Outdoor Dining area shall be accompanied by (i) a diagram/sketch of how the Outdoor Dining area will be laid out, and (ii) a certificate of insurance for general liability insurance in an amount no less than \$1,000,000 per occurrence, naming the City of Fairfield as an additional insured. Restaurants serving alcohol shall also provide a certificate of insurance for liquor liability naming the City of Fairfield as an additional insured.
- r. The city administrator, or designee, shall either grant or deny the application within thirty days of the application being filed. If the application is granted, the city will provide a temporary right of way easement.
- s. In the event of a Restaurant's non-compliance with the terms of this Ordinance, the City of Fairfield may cancel the Restaurant's Outdoor Dining permit; within seven days of receiving written notice of such cancellation, the Restaurant shall clear the Outdoor Dining area of all contents and structures. Grounds for termination of temporary easement shall include, but not be limited to, repeated violations of state and liquor control laws, violations of the temporary easement agreement, creating a safety hazard, health hazard or public nuisance, and/or not maintaining Outdoor Dining area to standards of original application.
- t. In the event there is a change in ownership for a Restaurant, Outdoor Dining permits are non-transferrable and a new application shall be submitted by the new owner.
- u. Outdoor dining establishments may be inspected for compliance at any time.
- v. Design, aesthetics, and appearance of outdoor dining areas must follow Fairfield's Outdoor Dining Design Guidelines. (Available through Fairfield City Planning Office)

9.50.030 SIDEWALK DINING REQUIREMENTS:

In addition to the above General Outdoor Dining Requirements, the following shall apply to Sidewalk Dining:

- a. **Permitted Area:** A sidewalk cafe must be arranged in a manner that leaves an unobstructed and continuous walkway of a minimum of four feet on the existing public sidewalk. For a distance of no more than two feet, the width of the required walkway may be reduced to three feet, if this reduction in width is caused by a permanent publicly owned installation such as a utility/light pole, sign pole, parking meter, fire hydrant, or street tree. The minimum four foot pathway may not exceed a 2% cross slope as required by ADA guidelines.
- b. **Hours of Operation:** Sidewalk Dining shall be allowed to operate during the hours of 6:00 a.m. until 1:00 a.m., Monday through Saturday (Saturday defined as 1:00 a.m. Sunday morning), and Sunday during the hours of 8:00 a.m. until 10:00 p.m. Monday through Saturday sales and service shall cease by 12:30 a.m. and all areas shall be vacated by 1:00 a.m. Sunday sales and service shall cease by 9:30 p.m. and all areas shall be vacated by 10:00 p.m.
- c. **Permits:** Annual permits are issued for a \$50 fee.

9.50.040 PARKING SPACE DINING REQUIREMENTS:

In addition to the above General Outdoor Dining Requirements, the following shall apply to Parking Space Dining:

- a. **Dining Platform:** For Parking Space Dining, a Dining Platform must be constructed and installed by the Restaurant.
 - 1) Allowed parking space dining areas are limited to North Main and North Court from Burlington to Briggs and Broadway Avenue from North 2nd Street to North B Street.
 - 2) The Dining Platform can only be accessed from the sidewalk.
 - 3) The Restaurant shall provide table service in the Dining Platform.
 - 4) No animals are permitted in dining area with exception of service animals.
 - 5) A Restaurant may utilize no more than two public parking spaces with its Dining Platform and shall not restrict ease of use in adjacent parking spaces. The parking spaces utilized must be immediately in front of the Restaurant.
 - 6) The dimensions of the Dining Platform shall not exceed 13' in width (along the curb) and 12' in depth (from the curb into the parking spaces) and may overlap the sidewalk no more than two (2) feet, while still maintaining a minimum 5 foot wide clear path for public right of way. This five foot pathway must be clear of all permanent fixtures such as light poles, benches, and bike racks. The 5 foot pathway may not exceed a 2% cross slope as required by ADA guidelines. If adjacent to an existing parking space, the platform must leave a 3' buffer to the edge of the parking line and wheel stops must be placed between the platform and adjacent parking space.
 - 7) The Dining Platform must not be more than 1' above the sidewalk level, must incorporate sturdy side railings, and must comply with the requirements of the American Disabilities Act.
 - 8) Dining Platforms are to only be located in the nearest parking spaces abutting the sidewalk in front of the permitted Restaurant, unless there are two Dining Platforms located in close proximity that are requested by the city administrator to be located adjacent to each other. This would be done to maximize parking and eliminate the need for a car to park between two Dining Platforms.
 - 9) No more than three (3) Dining Platforms shall be permitted to be installed within a linear city block.
 - 10) City officials will inspect Dining Platforms for dimensions, materials, and aesthetics, not for structural integrity.
 - 11) Dining Platforms must be constructed in a way to allow storm water to run adjacent to the curb unobstructed.
 - 12) During the off-season, (November 2 – April 30) chairs, railings, posts, the Dining Platform structure, planters, table umbrellas, and other items shall be removed (by November 7) and shall be stored off site. It shall be the responsibility of the Restaurant to secure adequate storage of these items.
 - 13) No cords or electrical wires may cross the sidewalk to serve dining platforms.

- 14) Dining Platforms shall not be placed in parking spaces at the corners of intersections or next to cross walks, accept where planting nodes are located between the parking spaces and intersections and/or cross walks.
 - 15) Corners and edges of Dining Platforms must be identified with soft reflective hit posts.
- b. **Hours of Operation:** Dining Platforms shall be allowed to operate during the hours of 6:00 a.m. until 1:00 a.m., Monday through Saturday (Saturday defined as 1:00 a.m. Sunday morning), and Sunday during the hours of 8:00 a.m. until 10:00 p.m. Monday through Saturday sales and service shall cease by 12:30 a.m. and all areas shall be vacated by 1:00 a.m. Sunday sales and service shall cease by 9:30 p.m. and all areas shall be vacated by 10:00 p.m.
- c. **Permits and Fees**
- 1) Permits are issued for a six month period from May 1 – November 1.
 - 2) Any Restaurant granted a permit by the Fairfield city administrator to operate a Dining Platform shall pay to the City of Fairfield a fee of \$250.
 - 3) With respect to the limit of three Dining Platforms in a linear city block, permits will be issued on a first come, first served basis. Preference will be given to prior-year permit holders, with a limit of preferential treatment for three (3) consecutive years.
 - 4) Dining Platform fees may be revised at any time by resolution of the Fairfield City Council.

9.50.050 ALLEYWAY DINING REQUIREMENTS:

In addition to the above General Outdoor Dining Requirements, the following shall apply to Alleyway Dining:

- a. **Permitted Area:**
- 1) Alleyway Dining chairs, tables, railing and other materials may be configured up to the full length of the Restaurant in the adjoining alleyway and must leave at least a five (5) foot unobstructed pathway along the alleyway for public access. The 5 foot unobstructed pathway must not exceed a 2% cross slope as required by ADA guidelines.
 - 2) Temporary and visible barricades must be placed on the street and at the nearest alleyway intersection to prevent vehicles from entering the alleyway during Alleyway Dining hours of operation. It is the responsibility of the Restaurant to coordinate the installation and removal on the barricades with the City streets department.
- b. **Hours of Operation:**
- 1) 5:00 pm to 12:30 am the following day
 - 2) Entire area must be cleaned and cleared by 1:00 am
- c. **Permits**
- 1) Single event permits are issued at least two weeks in advance for a \$50 fee, payable to the City of Fairfield.