
7.11.00 Downtown Zoning District.

The intent of the Downtown Zoning District, is to recognize the importance of the downtown area, both economically and historically to the City of New Port Richey. Further, the land use category is intended to encourage and promote the redevelopment of the downtown area as the city's financial, commercial, governmental, cultural, recreational and professional center. The preservation and rehabilitation of the existing historical structures is of significance to the City of New Port Richey. Infill construction shall be compatible with and enhance the architectural style of the downtown area. The Downtown Zoning District is intended to serve as a focal point of the community pride and interest.

7.11.01 Permitted uses

A building or premises shall be used only for the following purposes:

- (1) Apparel stores, including consignment;
- (2) Antique shops;
- (3) Art studios and galleries;
- (4) Bakeries;
- (5) Banks and financial institutions;
- (6) Barber and beauty shops;
- (7) Bed and breakfast operation as regulated under Section 7.23.00 et seq. of this Code. Such use may be allowed only upon approval for a special exception by the city council in accordance with this Code;
- (8) Bookstore/stationery stores/newsstand;
- (9) Beer gardens, taprooms and brewpubs;
- (10) Business and professional offices;
- (11) Card shops;
- (12) Copying services;
- (13) Convention and conference centers;
- (14) Dance studios;
- (15) Dental labs;
- (16) Dental office;
- (17) Florist shops;
- (18) Fruit and vegetable markets;
- (19) Gift shops;
- (20) Governmental offices;
- (21) Grocery stores;
- (22) Hardware stores;
- (23) Health clubs;
- (24) Hobby and collectable shops;
- (25) Home furnishing stores (new merchandise only);

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- (26) Hotels;
 - (27) Hypnotherapy (by a state licensed health care professional or supervised by same);
 - (28) Ice cream/confectionary;
 - (29) Jewelry stores and repair;
 - (30) Laundry and dry cleaning shops;
 - (31) Locksmith shops;
 - (32) Massage salons;
 - (33) Medical office;
 - (34) Medical supply stores (includes repair of electric-powered equipment sold on site);
 - (35) Mobile vendors. Such vendors must be permitted uses under the Downtown District and must comply with section 7.11.07;
 - (36) Museums;
 - (37) Musical instrument sales;
 - (38) News publishers;
 - (39) Office supply stores;
 - (40) Package sales of wine and malt beverages;
 - (41) Parking garages and lots;
 - (42) Parks and recreation facilities;
 - (43) Pet stores;
 - (44) Performing arts and cultural center;
 - (45) Photography stores and studios;
 - (46) Places of worship;
 - (47) Repair shop (other than motor vehicles, motorized watercraft and other motorized equipment);
 - (48) Residential uses. Such residential use must follow the requirements of the MF-14 zoning district. The maximum residential density permitted in this district shall be consistent with the applicable future land use category;
 - (49) Restaurants, grills, cafes, taverns and similar eating and drinking establishments, but excluding drive-in restaurants;
 - (50) Shoe stores and repair shops;
 - (51) Single-family dwellings with customary accessory uses as regulated in the city's R-1, R-2 and R-3 zoning classifications;
 - (52) Spa;
 - (53) Sporting goods and rental/repair stores;
 - (54) Tailor shops;
 - (55) Theaters;
 - (56) Travel agencies;

(57) University or college but restricted to one within the Downtown zoning district; and

(58) Urban agriculture (indoor crop production prohibited).

(Ord. No. 1775, § I, 9-20-2005; Ord. No. 1915, § 1, 1-6-2009; Ord. No. 2015-2054, § I, 1-5-2016; Ord. No. 2016-2073, § XI, 6-21-2016; Ord. No. 2019-2150, § 3, 2-19-2019; Ord. No. 2020-2185, § 3, 3-18-2020)

7.11.02 Prohibited uses

A building or premises shall not be used for any of the following purposes, without limitations:

- (1) Adult entertainment establishments;
- (2) Bail bond businesses;
- (3) Billiard parlors and pool halls;
- (4) Boarding houses and rooming houses (excluding bed and breakfast facilities);
- (5) Bottle clubs;
- (6) Call centers;
- (7) Commercial communications facilities and devices;
- (8) Convenience stores;
- (9) Drive-in restaurants;
- (10) Drug paraphernalia, as defined by Chapter 893, Florida Statutes, and sold in any type of establishment;
- (11) Flea markets;
- (12) Hypnotists;
- (13) Light manufacturing or fabricating;
- (14) Massage parlors;
- (15) Medical Marijuana Treatment Center Dispensing Facilities;
- (16) Modeling agencies;
- (17) Motor vehicle sales, storage or repair;
- (18) Nicotine dispensing device business;
- (19) Palm readers and astrologers;
- (20) Pharmacies.
- (21) Repair shops of motorized equipment;
- (22) Restricted personal service uses;
- (23) Storage facilities (indoor or outdoor);
- (24) Thrift stores;
- (25) Video game parlors; and
- (26) Warehouses.

(Ord. No. 2016-2075, § II, 2-2-2016; Ord. No. 2018-2125, § V, 10-17-2017; Ord. No. 2017-2128, § I, 12-19-2017)

7.11.02.1 Conditional uses

Any use which is not listed as a permitted or prohibited use may be considered upon conditional use application to the development review committee and city council. The development review committee will make a recommendation to city council on the request. City council may approve such use upon a finding that the proposed use would contribute to the revitalization of the Downtown District, that the use would not be incompatible with the district's character and that the proposed use is compatible with other uses allowable by right in the district.

(Ord. No. 1775, § I, 9-20-2005; Ord. No. 1915, § 1, 1-6-2009)

7.11.03 Accessory uses/structures

See section 12.00.00 of this land development code for regulations governing accessory uses and structures.

7.11.04 Yard regulations

1. Setback requirements:

- a. *Front setback:* Because of the age and previous development patterns of the downtown, the front setback requirement must conform to the setback of adjacent buildings. Where there is no previous development, the front setback shall be fifteen (15) feet.
- b. *Rear setback:* The minimum setback of the rear building line shall be no less than ten (10) feet. If the rear building line of the property to be developed abuts an arterial, collector, or local street, the rear building line shall be no less than fifteen (15) feet.

If the property to be developed is abutting a different land use district, the rear setback shall be at least the required buffer space as defined in the buffer matrix.

- c. *Side setbacks:* Because of the nature of the downtown land use district, and to further the adopted redevelopment plan, zero lot line setbacks shall be permissible for side setback requirements, unless the property to be developed abuts a different land use district, then the side setback shall be at least the required buffer space as defined in the buffer matrix.

7.11.05 Height regulations

The maximum height shall be no greater than thirty-five (35) feet. The maximum building height shall be fifty (50) feet in cases where the property is designated with the Downtown Core (DC) future land use category on the Future Land Use Map and is allowed a maximum density of over fifteen (15) units per acre either by right or per the city's approval of Coastal Transfer of Development Rights.

(Ord. No. 2015-2054, § II, 1-5-2016)

7.11.06 Parking regulations

Parking shall be provided in accordance with the off-street parking regulations.

7.11.07—7.11.13 Reserved

Editor's note(s)—Ord. No. 2018-2135, §§ 1—7, adopted September 18, 2018, repealed §§ 7.11.07—7.11.13, which pertained to Mobile home cart and push cart vending and derived from Ord. No. 1307, § 13, 2-2-93; Ord. No. 1310, § 1, 3-2-93; Ord. No. 1334, § 1, 3-15-94; Ord. No. 1448, § 6, 3-3-98; Ord. No. 1861, § 6, 3-20-2007.

7.11.14 Sidewalk and street café subdistrict.

Sidewalk and street cafés meeting the requirements of this section shall be permitted within the downtown zoning district.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.15 Persons authorized to operate sidewalk and street cafes.

Any person who complies with the provisions of this section may be authorized to operate a sidewalk or street café provided that the sale of alcoholic beverages is incidental or accessory to a principle or primary restaurant use, or such other use where the sale of on-premises consumption of alcoholic beverages is authorized under this Code.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.16 Application, review and approval procedures.

The procedures for application and review of permits for sidewalk and street cafés shall be as set forth in this section.

1. Applications. Before operating a sidewalk or street cafe, application for a sidewalk or street café permit shall be made to the city manager or his or her designee ("city manager"). Such applications shall include, but not be limited to, the following information:
 - a. The name, address, phone number and form of business of the applicant;
 - b. Evidence of registration of a fictitious name or trade name, if any, under which the applicant proposes to do business;
 - c. A reproducible copy (8 × 11, 8 × 14, 11 × 17), or eight (8) copies, of a detailed site plan including, but not limited to, the following information:
 - (1) Relationship of the sidewalk or street café to the adjacent existing or proposed building and their uses and entrance locations;
 - (2) The location of any above ground utilities that might affect or be affected by the proposal;
 - (3) The relationship of the sidewalk or street café to the centerline of the adjacent street, if applicable, and to any existing or proposed public improvements including, but not limited to, benches, fire hydrants, light standards and landscaping;
 - (4) The total square footage, approximate dimensions and seating layout of the proposed sidewalk or street cafe;
 - (5) The location of all planned improvements and amenities, including, but not limited to, chairs, tables, fencing, awnings, umbrellas, planters and heaters; and
 - (6) The proposed seating count for the subject business, including the sidewalk and street café, and all other seating.
 - d. Evidence of written notification, on a form provided by the city, to all immediately abutting property owners regarding the applicant's submission of an application for a sidewalk or street café permit; and
 - e. Plans for the operation of the sidewalk or street café including, but not limited to, hours of operation, maintenance of the sidewalk or street café and services to be provided.
2. Application review and approval. Applications for sidewalk or street cafés within the sidewalk or street café subdistrict shall be forwarded to the city's development review committee ("DRC") and reviewed as provided herein.
 - a. The development review committee ("DRC") shall examine the application and associated documentation.
 - b. The DRC may approve plans, designs and specifications that do not unreasonably interfere with any of the following:

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- (1) Adequate pedestrian flow;
 - (2) Access to public utilities, building entrances, crosswalks, bus stops and transient entrances;
or
 - (3) Pedestrian and traffic safety.
 - c. The DRC shall review the application to ensure that the operational guidelines set forth in this section are addressed in the application.
 - d. The DRC may advise the applicant of the revisions to the applicant's plans, designs and specifications that will result in an application that conforms to the provisions of this subdivision.
 - e. The DRC may deny an application for a sidewalk or street café permit if, in the reasonable discretion of the DRC:
 - (1) The applicant has failed to comply with any of the submission requirements contained in this section;
 - (2) The sidewalk or street cafe, as the applicant represents how it will be operated, fails to comply with the criteria set forth in this section;
 - (3) Any material information submitted by the applicant is found to be incorrect; or
 - (4) The sidewalk café is not an extension of an existing or new restaurant, or such other use where the sale of on-premises consumption of alcoholic beverages is authorized under this Code, which is or will be adjacent to one or more city rights-of-way. For the purposes of this section, a restaurant shall be defined as in chapter 2, section 2.01.00 of the Land Development Code.
 3. Reapplication. Any current holder of a sidewalk or street café permit shall reapply for a new permit if substantive changes are proposed to the permitted sidewalk or street cafe.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.17 Permit issuance.

Upon approval of an application and submission of the following items, the DRC shall issue a sidewalk or street café permit:

1. Copies of a valid City of New Port Richey business tax receipt as required by the provision of this Code requiring a business tax receipt for use of the property as a sidewalk or street café;
2. Copies of all required permits to operate a sidewalk or street café from all other governmental agencies having jurisdiction;
3. Except for sidewalk cafés located entirely upon private property, including all serving areas, a properly executed certificate of insurance on forms which are to be furnished by the city manager providing liability insurance in the amount of one million dollars (\$1,000,000.00) combined single limit per each occurrence, which insurance policies shall:
 - a. Be from a company duly authorized to do business in the State of Florida;
 - b. Provide that the city is an additional insured as to any and all liability arising out of the applicant's use or occupation of the premises licensed to the applicant pursuant to a license agreement or operation of said licensed premises as a sidewalk or street cafe;
 - c. Include a severability of interest provision; and

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- d. Provide that the city be given written notice of any cancellation or reduction in the coverage thereunder.
 4. Except for sidewalk cafés located entirely upon private property, including all serving areas, a fully executed revocable sidewalk or street café license agreement in the form provided by the city, which shall include an indemnity provision holding the city harmless from any and all liability arising out of the issuance of the sidewalk or street café permit, execution of the sidewalk or street café license agreement, the applicant's use or occupation of the licensed premises under the license agreement or operation of the sidewalk or street café on the licensed premises;
 5. The sidewalk or street café permit fee of fifty dollars (\$50.00); and
 6. Satisfactory written evidence of the permittee's liquor license, if applicable.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1729, § I, 7-20-2004; Ord. No. 1861, § 6, 3-20-2007; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.18 Conditions of permit.

The permit shall be issued in the form provided by the city manager. In addition to naming the permittee and any other information deemed appropriate by the city manager, the permit shall be subject to and contain the conditions set forth in this section.

1. Each permit shall be effective for the life of the sidewalk or street café subject to the provisions of this chapter.
2. The permit issued shall be personal to the permittee only.
3. A permit may be transferred to another person or entity provided (i) the insurance requirements under this section are met, (ii) the transferee or assignee executes a license agreement in favor of the city, if one is required hereunder, or otherwise assumes the obligations of the permittee under the license agreement executed by the transferor or assignor, and (iii) that no changes will be made to the site plan or use.
4. The city manager may require the temporary or permanent removal, at the permittee's expense, of any portion of the sidewalk or street café on public property when (i) redevelopment of the street or sidewalk or utility repairs necessitate such action, (ii) the permittee breaches the license agreement, (iii) the permittee fails to comply with the criteria set forth in this chapter, (iv) other conditions exist that render the location unsuitable for the sidewalk or street café, or (v) the license agreement is terminated for any reason.
5. To the extent that the provisions of this chapter conflict with any of the terms, provisions, covenants or conditions of the license agreement, the terms, provisions, covenants and conditions of the license agreement shall prevail.
6. The hours of alcoholic beverage sales at the approved sidewalk or street café shall coincide with the hours of operation for the principle business use associated therewith.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 1729, § II, 7-20-2004; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.19 Operational guidelines.

The following guidelines shall govern the location and operation of sidewalk and street cafes. The DRC shall use these guidelines to review applications for a sidewalk or street.

1. Location guidelines.

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- a. The width of the sidewalk or street café on public property is restricted to the width of the front or side of the associated business premises.
 - b. An adequate pedestrian right-of-way of no less than four (4) feet must be maintained, with special attention to sidewalk or street café facilities abutting intersections and handicap ramps so as to avoid impacts to crosswalks. This minimum distance shall be measured from the portion of the sidewalk or street café boundary which is nearest either the curb or the nearest obstruction.

For purposes of this section, including the calculation of all distance measurements, the boundary of the sidewalk café shall include a minimum of three (3) feet from any table intended for use with chairs. The sidewalk café boundary shall also include any extension created by the use of an umbrella, unless there is a minimum of eight (8) feet of unobstructed clearance between adjacent grade and the lowest portion of any such umbrella when fully opened. In no event may recesses in the sidewalk café boundary be used to satisfy this unobstructed width requirement, except that the corners of the sidewalk café may be rounded or mitered. Clearance at the corners of sidewalk cafés shall be measured in radius.

For the purpose of the minimum clear path, but not the clearance from corners of sidewalk cafes, clearance to trees which have grating flushed to grade without fences or guards shall be measured from the nearest edge of the trunks of such trees.

- c. Sidewalk and street cafés shall be a minimum of four (4) feet from large obstructions. For the purpose of this section, large obstructions shall be bus stops, newsstands, existing planters or any other above ground object greater than fifteen (15) square feet in area.
- d. Access to fire hydrants, fire hose connections for sprinkler systems or standpipes and entrances and exits of all buildings shall not be obstructed at any time by barriers or seating. Fire lanes shall not be obstructed at any time.
- e. Sidewalk or street cafés shall be located only as an extension of an approved adjacent restaurant use, or such other use where the sale of on-premises consumption of alcoholic beverages is authorized under this Code, which shall be adjacent to one or more city rights-of-way. For the purposes of this section, a restaurant shall be defined as in chapter 2, section 2.01.00 of the Land Development Code.

2. Construction guidelines.

- a. Sidewalk and street cafés shall have sufficient lighting which illuminates the café boundaries and adjacent pedestrian walkway in such a manner as to allow perception and safe negotiation of potential obstructions within said areas.
- b. Use of movable planters is permissible, and are required for delineation of drinking areas for sidewalk and street cafés serving alcoholic beverages.
- c. Awnings are permissible, provided the awning and support materials meet all applicable building and life/safety codes and either do not interfere with utilities or can be easily removed for maintenance of utilities.
- d. All signs shall be in compliance with the Land Development Code. No sign is permitted within the sidewalk or street cafe, except on the storefront or umbrellas.
- e. No heating or cooking of food or open flames are permitted in the sidewalk or street café, except during a special event approved by the city pursuant to chapter 3 of the code of Ordinances, so long as:
 - (1) The sidewalk or street café is within the approved special event area or the Downtown Zoning District Boundary as provided in the Land Development Code;

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- (2) The sidewalk or street café permit specifically authorizes such special event cooking, including review and approval thereof by the fire department; and
 - (3) All activities conducted within the sidewalk or street café during the special event are conducted in accordance with all terms and conditions of the approved sidewalk or street café permit.
- f. Sidewalk and street café seating shall be counted in determining the associated business's requirements for bathroom facilities, but shall not be counted in determining the required number of parking spaces.
 - g. All sidewalk and street café improvements shall comply with the sight distance restrictions found in chapter 8 of the Land Development Code.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 2018-2142, § I, 9-4-2018; Ord. No. 2022-2260, § 1, 10-4-2022)

7.11.20 Revocation or suspension of permit.

The revocation or suspension of permits is subject to the following:

1. The city manager shall provide written notice of the city's intent to revoke or suspend a permit for any sidewalk or street café if it is found or believed that:
 - a. Any necessary business or health permit has been suspended, revoked or canceled;
 - b. The permittee does not have insurance which meets the requirements of this chapter, if required;
 - c. Except for sidewalk cafés located entirely upon private property, including all serving areas, changing conditions of pedestrian or vehicular traffic cause congestion necessitating the removal of the sidewalk or street cafe. Such decisions shall be based upon the findings of the city manager that the existing conditions represent a danger to the health, safety or general welfare of the public;
 - d. The permittee fails to maintain or keep the sidewalk or street café clean;
 - e. The sidewalk or street café operations constitute a public nuisance, because of the frequency and duration of calls to the city police department for assistance;
 - f. The permittee has failed to correct violations of any of the foregoing within five (5) days of receipt of written notice from the city manager of such violations, which notice shall be delivered by certified mail, return receipt requested, or by posting in a conspicuous place at the sidewalk or street café or associated business; or
 - g. The permittee has failed to abide by one or more of the terms, provisions, covenants or conditions of the license agreement, if applicable.
2. The city manager or his or her designee shall give notice of the city's intent to revoke or suspend the permit to the permittee in writing stating the intended action and the reason therefore.
3. Upon the revocation of the sidewalk or street café permit, the permittee shall immediately remove the sidewalk or street cafe. Should the permittee fail to remove the sidewalk or street café within ten (10) days of the revocation of the sidewalk or street café permit, the city's officers and employees may remove the sidewalk or street café, or any portion thereof, on public property, and the costs of such removal shall become a lien on the adjoining property in the manner of other code enforcement liens.

(Ord. No. 1387, § 1, 1-2-96; Ord. No. 1710, § I, 1-20-2004; Ord. No. 1729, § III, 7-20-2004; Ord. No. 2018-2142, § I, 9-4-2018)

7.11.21 Reserved.

Editor's note(s)—Ord. No. 1710, § 1, adopted Jan. 20, 2004, deleted § 7.11.21 in its entirety. Former § 7.11.21 pertained to permit renewal and derived from Ord. No. 1387, § 1, adopted Jan. 2, 1996.