



# Policies, Procedures, and Standards for Sidewalk Cafes in the Downtown Area

# Policies, Procedures, and Standards for Sidewalk Cafes in the Downtown Area

## Contents

- I. Background ..... 2
  - What is a Downtown Sidewalk Café Permit?..... 2
  - Who is issued a Downtown sidewalk café permit? ..... 2
  - Where can a Downtown Sidewalk Café Permit be used?..... 2
- II. Definitions ..... 2
- III. Permit Review and Approval Process ..... 3
  - Sidewalk Café Permit Application ..... 3
  - Staff Review & Permit Issuance ..... 3
  - Fees ..... 3
- IV. Standards for Cafes & Other items ..... 4
  - Café Location ..... 4
  - Clear Path of Travel..... 4
  - Accessibility Information..... 4
- V. Design and Materials ..... 5
  - Barriers..... 5
  - Planters ..... 5
  - No artificial plants, empty planters, or bare dirt, mulch, straw or similar materials are permitted. .... 5
  - Furniture and Fixtures..... 5
- VI. Maintenance ..... 6
- VII. Rules, Regulations, and Prohibited Uses ..... 6
  - Hours of Operations..... 7
  - Inspections ..... 7
  - Prohibited Uses..... 7
- IIX. Insurance..... 7
- IX. Fines ..... 9

## I. Background

This document provides the procedures, terms, and conditions regarding the use of sidewalks in Downtown New Braunfels for sidewalk cafes. The Downtown Development Coordinator will manage and administer the permit process for sidewalk cafes and other sidewalk encroachments on public sidewalks in the Downtown area.

### What is a Downtown Sidewalk Café Permit?

A **Downtown Sidewalk Café Permit** allows the permit holder to place tables, chairs, and barriers within the sidewalk area adjacent to a bar or restaurant for use by patrons to whom the business has provided food or beverage. The permit requires that the Downtown Sidewalk Café Permit ensures that their Sidewalk Café meets site and other regulations as set by the City of New Braunfels.

### Who is issued a Downtown sidewalk café permit?

The Downtown Sidewalk Café Permit is issued to an individual, the Permit holder, for use by a single business and location named in the application. The permit is personal to the permit holder and cannot be transferred in any manner. The adjacent property owner must authorize the permit.

### Where can a Downtown Sidewalk Café Permit be used?

The Downtown Sidewalk Café Permit area includes all sidewalks along San Antonio Street, Seguin Avenue and Castell Avenue within the Downtown area (see Appendix A).

## II. Definitions

**Sidewalk Café:** any portion of sidewalks in the downtown area in which tables, chairs, and associated exterior property are placed for the purpose of patrons consuming food and/or beverages (alcoholic or non-alcoholic) served by a food establishment adjacent to the public sidewalk property.

**Clear Path of Travel:** Measured from the outside edge of the sidewalk café barrier to the back of the curb or nearest obstruction or change in elevation (i.e. tree, waste receptacle, light pole, step, etc.). Measurements must be clearly depicted in the site plan.

**Clear Visual Zone:** A 36-inch portion of the clear path of travel that is composed of concrete.

### III. Permit Review and Approval Process

#### Sidewalk Café Permit Application

Applicant must complete and sign the sidewalk café permit application. To submit a complete application, the applicant must provide:

- Completed permit application form
- Photograph of area to be used as a sidewalk café
- One legible site plan including the following:
  - North arrow
  - Site plan with clearly defined measurements
  - Name of adjoining streets
  - Seating plan
  - Clearly delineated and labeled 3-ft. clear visual zone and 6-ft. Clear Path of Travel
  - Width of adjacent sidewalk
  - Copy of approved Certificate of Alteration is located in a historic district
  - Letter from insurance agent agreeing to provide coverage (see below) if application is approved
  - Copy of Texas Alcoholic Beverage Commission license/permit (if applicable)
  - Letter of authorization from the property owner of the food service establishment
  - Permit application fee (paid in full)
  - Historic Preservation Officer Approval (if located in Historic District)

#### Staff Review & Permit Issuance

Staff will review the application documents and conduct a site visit to determine if the proposed sidewalk café is in compliance with the defined standards for sidewalk cafes. If the application is determined to be in compliance, staff will contact the applicant to request a Certificate of Insurance, letter of endorsement from insurance provider, and proof of invoice payment for insurance coverage. Once all insurance documents have been received, the permit will be issued.

#### Fees

The initial non-refundable permit application fee, due at the time of application is \$100. If the permit application is approved, the applicant must submit all required payments and documents required before operating the sidewalk café. The annual license fee is based upon the square footage of the café area as follows:

Square Footage	Annual Fee
<250 Square feet	\$250.00
250-500 Square feet	\$500.00
>500 Square feet	\$750.00

## IV. Standards for Cafes & Other items

### Café Location

All sidewalk cafes must be located directly in front of, and adjacent to, the business's primary façade. The café area is to begin flush with the building face and cannot extend beyond the business storefront area on either side.

### Clear Path of Travel

All operations, furniture, and other related obstructions of a sidewalk café must be contained within the approved boundaries of the café at all times. The area of the sidewalk reserved for pedestrian and other travel is referred to as the **clear path of travel**. The clear path of travel must be free of all obstructions such as posts, signs, street lights, fire hydrants, bicycle racks, vegetation, trees, tree wells, planters, literature, trash bins, and news racks or similar obstructions. Certain obstructions such as umbrellas may extend into the clear path of travel only when all parts are above a height of seven feet.

The minimum Clear Path of Travel is 6 feet and includes a minimum of 3 feet of concrete sidewalk. The Clear Path of Travel may meander from side to side to avoid obstructions, but must always contain a continuous, straight passage with a minimum width of 6 feet. The three-foot continuous concrete path is known as the Clear Visual Zone and provides pedestrians with a clear indication of the walkway.

- A minimum of 6-foot clear path of travel is required on all public sidewalks with sidewalk cafes or other obstructions.
- In areas with paver sections, a 3-foot clear area is required behind the pavers (towards the building face).
- Under certain conditions, the City Engineer may require a clear path of travel greater than 6 feet or permit a clear path of travel less than six feet.
- If the sidewalk cafe use causes change in pedestrian travel, appropriate repairs in the immediate area may be required to accommodate the change to assure compliance with ADA.
- Cords, strings and lights may not be strung over or placed in the pedestrian path of travel.
- Landscaping: Planters must be contained within the footprint of the approved café or obstruction area.
- At least one accessible route shall connect accessible buildings, facilities, elements and spaces that are on the same site.
- No café or obstruction may be placed within 5-feet of intersection ramps.

### Accessibility Information

- The minimum space requirement for a standard wheelchair to make a 180-degree turn in a clear space of 60 inches in diameter.
- The minimum width for two wheelchairs to pass is 60 inches.
- The minimum clear floor or ground space required to accommodate a single stationary wheelchair occupant is 30x48 inches.

## V. Design and Materials

### Barriers

If fences, planter boxes, or other barriers are proposed and are designed to be affixed to the sidewalk, the City Engineer or their designee must review the proposed installation method to ensure the installation will not damage the sidewalk. Core drilling or setting is prohibited. Additionally, barriers shall be constructed of durable materials.

- Fencing must not exceed 42 inches in height and shall be a minimum of 36 inches in height
- Bottom of barriers shall be no more than 27 inches above the sidewalk surface.
- Fencing must be at least 50% open (see-through), solid sheet fencing and canvas inserts are not permitted.
- Fencing must be constructed of metal (aluminum, iron, steel or similar) with a railing, rope, or other horizontal elements. Posts with pointed tops are not permissible.
- Belt stanchions, buckets and ropes, or any other temporary barriers are not permitted. All posts must be secured to the sidewalk and have a flat base.

### Planters

Landscape planters may be used as a fencing device in place of or in addition to other barrier designs.

- Planters shall not exceed 42 inches in height (not including planted material), and plants may not exceed a height of 8-feet.
- All planters must contain planted material. Should planted materials die, new plants must be planted or the planter removed.

**No artificial plants, empty planters, or bare dirt, mulch, straw or similar materials are permitted.**

### Furniture and Fixtures

Tables, chairs, and other appurtenances shall be durable, waterproof, and able to withstand weather elements. All such appurtenances must be maintained to the standards of the original permit for the duration of the life of the sidewalk café.

- All furniture other than tables, chairs, and umbrellas is prohibited. This includes, but is not limited to serving stations, bar counters, shelves, racks, sofas, televisions, and trash receptacles.
- Heaters may be allowed on a case by case basis and subject to the approval of the Fire Marshal and the Downtown Development Coordinator.
- All furniture must be free standing and not secured to the sidewalk, trees, lamp posts, or any other street infrastructure, whether during operating hours of the establishment or when the establishment is closed.
- Furniture must be finished grade wood, metal, or sturdy recycled materials. No breakable plastics, unfinished lumber, or artificial turf is permissible.

- Umbrellas must be contained within the sidewalk café area and when extended shall measure at least 7 feet above the surface of the sidewalk café.
- No advertising, signage, or wording is permitted on umbrellas.
- Any part of an umbrella may not exceed a height of 10 feet above the sidewalk.
- Umbrellas shall blend into the fabric of Downtown and are shall be solid color and not in any strikingly bright or vivid color.
- Lights and lighting, other than tabletop lighting fixtures are not permitted.
- Extension cords running to or from the sidewalk area are prohibited.

## **VI. Maintenance**

- The applicant shall, at all times, maintain the sidewalk adjacent to the area of sidewalk café or other permitted use free from obstructions and maintain a minimum clearance of 6 feet (3 feet of concrete) on the sidewalk adjacent to the permitted use or cafe. Applicant shall keep the area adjacent to the permitted use free and clear of any tables or other property. The licensee shall be responsible for the prompt removal of trash within the sidewalk café. Trash is not to be disposed of in permanent trash can in the right of way. All tables are to immediately be bussed upon patrons leaving the area.
- The applicant shall, at all times, maintain the sidewalk adjacent to the permitted sidewalk café area in good repair and compliance with ADA. The applicant shall promptly repair any damages to the sidewalk and replace any broken improvements within a reasonable time. All such repairs and replacements shall be subject to the approval of the City and all other necessary boards and commissions. If the applicant does not promptly make such repairs, the City may, but is not required to, make such repairs and replacements and the costs paid or incurred by the City for such repairs and replacements shall be payable in full to the City within three calendar days.
- Applicant shall, at termination of the permit, return the sidewalk premises to the City in as good condition as at the commencement of the term hereof, excepting only usual wear and tear, acts of God, or unavoidable accident.
- Applicant agrees to hold the City harmless for any theft, damages, or destruction of signs, goods, and/or other property of the applicant both during the term of this permit and as left on the permitted sidewalk cafe area after the permit expiration date or applicant vacates the subject premises. Any obstructions not removed within seven calendar days of the expiration of the permit may be removed by the City without any further notice or liability.
- In the event of removal of the café or any fixtures of the café, the licensee shall be responsible for repairing the sidewalk to a flush condition (subject to approval by the City Engineer and Downtown Development Coordinator).

## **VII. Rules, Regulations, and Prohibited Uses**

1. All permit holders shall comply with all applicable local, state, and federal rules and regulations.
2. Applicant shall only be allowed to place items in the permitted obstruction area that are listed on the permit application.

3. Applicant shall not obstruct any entrance or exit to the business establishment.

### Hours of Operations

1. Sidewalk cafés may only operate during the food establishment's business hours. Merchandise, signs, and other moveable items may only be displayed or placed on the sidewalk during the businesses operating hours only.

### Inspections

1. The City Downtown Development Coordinator may conduct an initial inspection to verify that the applicant is in compliance with the permit conditions.
2. The City Downtown Development Coordinator may conduct inspections throughout the permit period to determine if:
  - Permit conditions are being met
  - Original businesses are still in operation
  - Site conditions require compulsory repair or maintenance
  - Site conditions require permit modifications
3. Fines/Penalties: The City may issue a fine if any violation and non-compliance of City Code or sidewalk use requirements are found. Fine for the first notice is \$100, second notice is \$150, and the third notice may require the revocation of the permit.

### Prohibited Uses

1. No advertisements, signs, decorations, or displays shall be placed in, on or about the sidewalk café premises without prior written approval of the City.
2. Gambling of any nature is not allowed in the sidewalk obstruction area.
3. Applicant shall not place televisions, speakers, or amplified music on or in the sidewalk café area. Failure to comply with this section may, at City's opinion, constitute default of the permit.
4. Applicant shall not engage in, or allow its employees, agents, invitees, guests or any other person to engage in vending on the sidewalk other than the customary and ordinary restaurant service or display of merchandise regularly and ordinarily associated with the business directly adjacent to the sidewalk encroachment area.

### IIX. Insurance

Applicant agrees to hold the City of New Braunfels harmless for any theft, damage, or destruction of property of the applicant both during the term of the permit and as so left on the sidewalk café premises after applicant vacates the premises or the permits expires or is revoked.

Prior to the commencement of sidewalk use, applicant will furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Downtown Development Coordinator, which shall be clearly labeled with applicant business name and address in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original Certificate(s) or form must have the agent's



original signature, including signer’s company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the City. The City shall have no duty to perform under this agreement until such Certificate(s) and endorsements have been received and approved by the City’s Downtown Development Coordinator. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review the insurance requirements of this Article during the effective period of the permit and any extension or renewal thereof and to modify insurance coverage and their limits when deemed necessary and prudent by the City’s Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. In no instance will the City allow modification where upon the City may incur an increased risk.

Subject to the applicant’s right to maintain reasonable deductibles in such amounts as are approved by the City, applicant shall obtain and maintain in full force and effect for the duration of this agreement, and any extension thereof, at applicant’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best’s rating of no less than A- (Vii), in the following types and for amounts not less than those listed below:

TYPE	AMOUNTS
1. Worker’s Compensation 2. Employer’s Liability	Statutory \$1,000,000/\$1,000,000/\$1,000000
Broad Form Commercial General Liability Insurance coverage for the following: a) Premises Operations b) Independent Contractors c) Products/Completed Operations d) Personal Injury e) Contractual Liability f) Environmental Impairment/Impact - sufficiently broad to cover disposal liability	For Bodily Injury and Property Damage of \$1,000000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage.

**VI. Indemnification**

**APPLICANT covenants and agrees to FULLY INDEMNIFY, DEFEND, and HOLD HARMLESS the CITY and elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively , from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to APPLICANT’S activities under this agreement, including any acts or omissions of the APPLICANT, any agent, officer, director, representative, employee, consultant or subcontractor of APPLICANT, and their respective officers, agents, employees, directors and representatives while in exercise of the rights or performance of duties under this agreement.**

## **IX. Fines**

The City may issue a fine if any violation and non-compliance of City Code or sidewalk use requirements are found. Fine for the first notice is \$100.00, second notice is \$150.00, and third notice may require revocation of the permit.

**Appendix A. Sidewalk Café Application**



CITY OF NEW BRAUNFELS  
DOWNTOWN DEVELOPEMENT  
550 LANDA STREET  
NEW BRAUNFLES TEXAS 78640  
PHONE: (830) 221-4057

---

**SIDEWALK CAFÉ PERMIT APPLICATION**

Property Owner

Tenant/Lessee

Applicant Name (type or print): \_\_\_\_\_

Name of Establishment: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

---

**Sidewalk Café Fees**

Application Fee (due at application submittal): \$100.00 + \$3.00 technology fee

Annual Sidewalk Café License Fee (due upon approval, prior to permit issuance)

- <250 square feet = \$250.00 annual permit fee
- 250-500 square feet = \$500.00 annual permit fee
- >500 square feet = \$750.00 annual permit fee

Total Area to be used for sidewalk café: \_\_\_\_\_ square feet

---



CITY OF NEW BRAUNFELS  
DOWNTOWN DEVELOPMENT  
550 LANDA STREET  
NEW BRAUNFELS TEXAS 78640  
PHONE: (830) 221-4057

Will liquor be sold or consumed in the sidewalk café?  Yes  No

**Attach to this application**

- Photograph of area for sidewalk café
- Site Plan (minimum 8.5 x 11) to include:
  - Clearly identified measurements
  - North arrow and property lines
  - Name(s) of adjoining streets
  - Width of Sidewalk adjacent to café
  - Outdoor seating plan (include photos/specs of furnishings)
  - Location of business entrances
  - Locations and dimensions of proposed area for sidewalk café use (add sidewalk width remaining for pedestrian - minimum of 6 feet required, three of which must be concrete).
  - Location and dimensions of existing improvements (e.g. fire hydrants, traffic signs, light poles, tree pits, ramps, steps, etc.)
  - Location and dimensions of any proposed improvements in the sidewalk area associated with the sidewalk café (e.g. chairs, tables, fences, umbrellas, planters, bollards, outdoor furniture, etc.) Include dimensions of fencing height, distance from sidewalk, fencing material description or photos/specs. For planters, include height dimensions.
  - Clearly labeled and delineated 6-ft Clear Path of Travel and 3-ft Clear Visual Zone
- Copy of Historic Landmark Commission approval (if in Historic District)
- Insurance: Letter from insurance agent agreeing to provide coverage (as described in Chapter 114, Section 110-10) if applicant is approved for sidewalk café permit.
- Copy of alcohol license/permit (if applicable)
- Letter of Authorization from property owner
- Permit Application Fee: \$100.00 plus \$3.00 technology fee

**Internal Use Only**

Date Received: \_\_\_\_\_

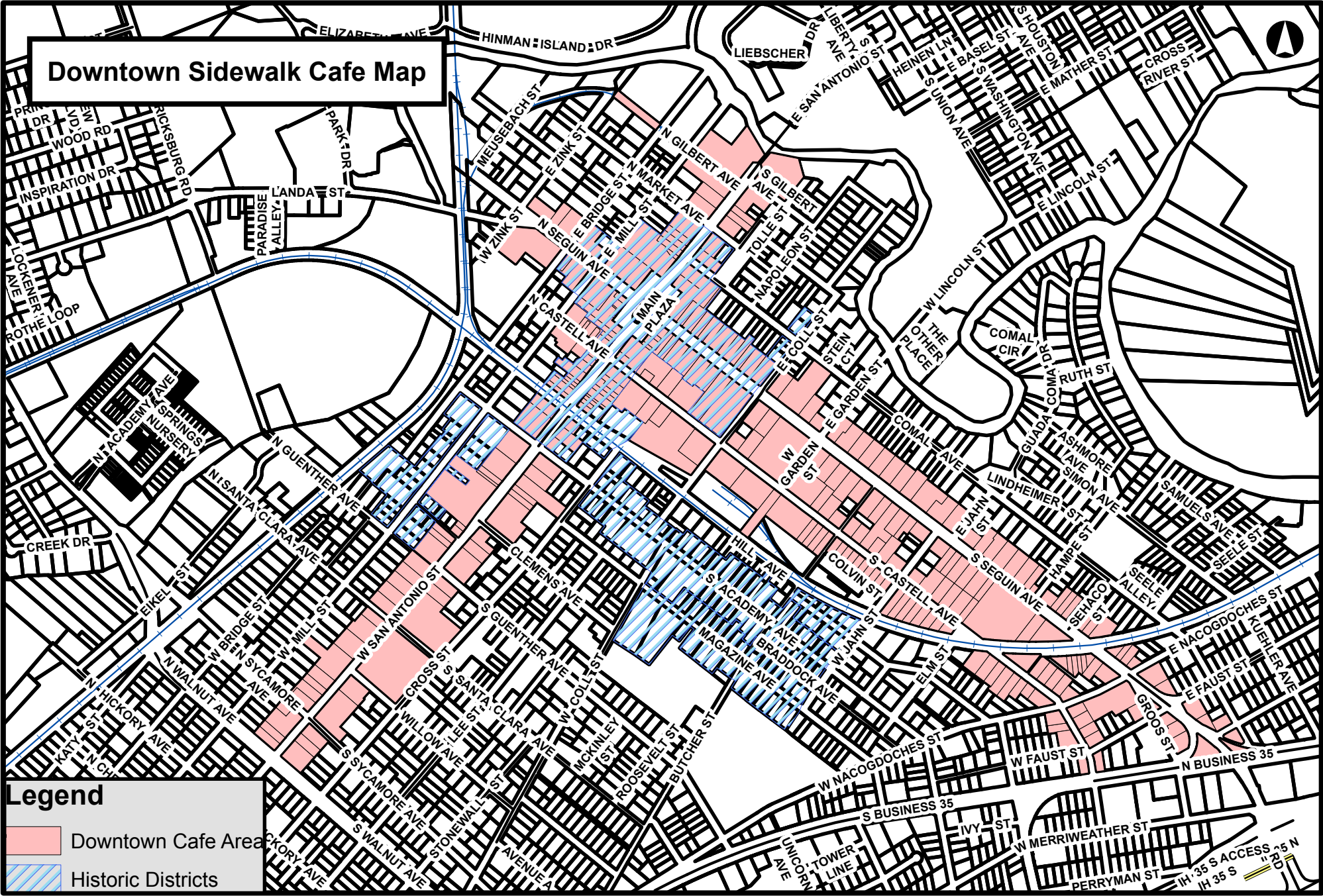
By: \_\_\_\_\_

Application Fee Paid: \_\_\_\_\_

Case No: \_\_\_\_\_

**Appendix B. Downtown Map Boundaries**

# Downtown Sidewalk Cafe Map



## Legend

- Downtown Cafe Area
- Historic Districts



## Downtown Sidewalk Cafe Area and Historic Districts

Map created 5/19/2016