

ORDINANCE NO. 13, 2016

**AN ORDINANCE ADDING CHAPTER 1186 TO THE VILLAGE
OF ST. BERNARD CODIFIED ORDINANCES AND
DECLARING AN EMERGENCY**

WHEREAS, the Village Council for the Village of St. Bernard intends to add Chapter 1186 to the St. Bernard Codified Ordinances; now therefore

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD,
STATE OF OHIO:**

Section 1. Chapter 1186 of the St. Bernard Codified Ordinances shall be added to read as follows:

CHAPTER 1186

Sidewalk Café & Sandwich Boards

1186.01 Intent.

1186.02 Definitions.

1186.03 Permit required.

1186.04 Application and permit fees.

1186.05 Permit application.

1186.06 Location rules and review criteria.

1186.07 Conditions of permit.

1186.08 Liability and insurance.

1186.09 Denial, revocation, or suspension of permit.

1186.99 Penalty.

1186.01 INTENT.

The purpose of this chapter is to permit and encourage sidewalk use that is compatible with other public uses of the public sidewalk. The Village finds that sidewalk Cafés encourage a pedestrian-oriented environment, help to create a visually attractive atmosphere and promote overall commerce. Regulations and standards for the existence and operation of sidewalk Cafés are necessary to facilitate and ensure a safe environment in these areas. The issuance of a sidewalk Café permit shall not constitute nor shall it be construed to constitute a vacation or abandonment by the Village of its interest in the right-of-way or any easements contained therein. This section is limited to the O-B 2 and the B-3 zoning district.

1186.02 DEFINITIONS.

As used in this chapter:

(a) "Abutting property owners and occupants" means any owner or occupant of property which abuts the subject sidewalk Café site excluding public right-of-way.

(b) "Adjacent sidewalk area" means that portion of the public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.

(c) "Sidewalk Café" means:

A place serving food or beverage from a restaurant or other retail establishments with ancillary food service to patrons seated at tables located within the adjacent sidewalk area or providing seating for patrons in the adjacent sidewalk area.

(d) "Sandwich Board Sign" means those temporary signs as provided by the Village of St. Bernard for use within the adjacent sidewalk area relating to the adjacent business.

1186.0 PERMIT REQUIRED.

Private commercial use of public sidewalks for the purpose of operating a Sidewalk Café in the Village is prohibited unless a permit is obtained from the Director of Building Development and Planning as provided in this chapter.

1186.04 APPLICATION AND PERMIT FEES.

The annual permit fee shall be as posted on the Village web site under "Fee Schedule" for the proposed installation of a sandwich board sign or use of the public sidewalk for a Café. The fee is due at the time of the initial application. Application fee shall be required for annual renewals.

1186.05 PERMIT APPLICATION.

Application for a permit to operate a sidewalk Café shall be made to the Director of Building Development and Planning on a form provided. The request for permit shall contain:

- (a) A completed application;
- (b) A fully dimensioned scale site plan of the area for the proposed public sidewalk Café;
- (c) A certificate of insurance and endorsement form; and
- (d) The location and description of any tables, materials, merchandise, sign or equipment requested to be in the right-of-way.
- (e) Other information shall be provided as required by the Director of Building Development and Planning, the Service Director or Police Chief to carry out the purpose of this chapter.

1186.06 LOCATION RULES AND REVIEW CRITERIA.

The Director of Building Development and Planning shall review the application for its compliance with the following criteria:

- (a) The operation of a public sidewalk Café is limited to structures which are sited within ten feet of a public sidewalk, and which are located in the Downtown Business Districts.
- (b) The operation of a public sidewalk Café shall be located such that there is at least thirty-six (36) inches clear and unobstructed passageway between any tables, merchandise, materials sign, or equipment and street trees, bike racks, lamp posts, sign posts, and any other fixtures or obstructions. Building entrances or exits shall not be obstructed. The Director of Building Development and Planning may require more than five feet if necessary to protect the public safety.
- (c) The public sidewalk Café may only be located in the sidewalk area adjacent to a permitted use, but may extend in front of adjacent businesses with the written consent of both the property owner and the business owner, subject to review and approval of the Director of Building Development and Planning.
- (d) The public sidewalk Café tables, merchandise, materials, sign, or equipment shall be located five feet from driveways and alleys, and ten feet from intersections.
- (e) The location of the sidewalk signs shall be as approved by the Director of Building Development and Planning. Sidewalk signs shall normally be approved for placement either one foot from the building or one foot from the curb to promote the safe progress of sidewalk traffic.
- (f) The Director of Building Development and Planning shall forward all applications for review by the Service Director and Police Chief.

All sidewalk Café permit holders shall be subject to the following;

- (a) Each permit issued shall be valid for one Calendar year. Requests for renewals shall be filed with the Director of Building Development and Planning after the first day of January. The Director may approve, approve with additional conditions, or deny the request for renewal.
- (b) The permit issued shall be valid only for the permittee and is not transferable in any manner.

- (c) The permit may be temporarily suspended by the Director of Building Development and Planning or the Service Director if the public interest requires use of the right-of-way for a public event, construction, repair, or any other public purpose.
- (d) The permit is specifically limited to the area approved or as modified by the Director of Building Development and Planning, and will include a diagram indicating the area approved for the public sidewalk Café and the location of any tables, materials, merchandise, sign, or equipment permitted to be in the right-of-way.
- (e) The sidewalk and all things placed there shall at all times be maintained in a clean and orderly condition.
- (f) The permittee shall clear any litter from the public sidewalk in the area of operation of a sidewalk café at the close of business and provide additional trash containers as specified by the Director of Building Development and Planning.
- (g) No signs shall be attached to any furniture, umbrellas, awnings, or other structure
- (h) Sidewalk café shall be continuously supervised by employees of the establishment and may be occupied only during the hours of operation of the establishment.
- (i) Sidewalk café shall meet all requirements of the County Health Department.
- (j) Tables, chairs, merchandise, equipment, and other materials associated with the sidewalk café shall be kept free of litter and other debris at all times. Where establishments provide take-out or self-service, an adequate number of employees must be maintained to clear sidewalk café on a regular basis. Sidewalk and flooring areas must be cleaned daily, including adjacent sidewalk areas.
- (k) The Village has the right to repeal or amend this chapter and thereby terminate or modify all sidewalk café operations. No permittee shall obtain any property right in the continued private commercial use of the public sidewalk.
- (l) Businesses shall not serve or permit the consumption of alcoholic beverages within the public sidewalk or right of way under any circumstances.

1186.08 LIABILITY AND INSURANCE.

Prior to the issuance of permit, permittee shall:

- (a) Furnish a signed statement, with the application, that the permittee shall defend, indemnify and hold harmless the Village, its officers and employees, from any and all claims for damages to property or injury to persons which may occur in connection with any activity carried on under the terms of the permit.
- (b) Each sidewalk café permit holder shall provide proof of liability insurance in the form of a certificate of insurance with limits no less than five hundred thousand dollars (\$500,000) per occurrence, one million dollars (\$1,000,000) aggregate and the Village of St. Bernard must be named on the certificate as additionally insured as a condition of the permit.

1186.09 DENIAL, REVOCATION, OR SUSPENSION OF PERMIT.

The Director of Building Development and Planning may deny, revoke, or suspend the permit upon finding that any provision of this chapter or condition of approval has been violated. Upon denial, revocation, or suspension, the Director of Building Development and Planning shall give notice of such action to the applicant or permittee in writing stating the action that has been taken and the reason therefor. The action shall be effective immediately.

1186.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor of the fourth degree. Each day such violation continues shall constitute a separate offense.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is to update the St. Bernard Codified