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139 8. The materials and design of the furniture including the type of
140 eating and drinking utensils shall be reviewed and approved by the Planning
141 Commission as part of the Conditional Use Permit. Proposed furniture shall be of high
142 quality material and weight to ensure durability;
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144 9. The sidewalk dining area shall comply with all applicable provisions
145 of Title 15 of this Code, including, but not limited to, maintaining proper building egress
146 and ingress at all times, observing maximum seating capacities, providing proper
147 circulation and providing appropriate handicapped access;
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149 10. No additional parking shall be required;
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151 11. The sidewalk dining area shall only operate between 7 a.m. and 11
152 p.m.;

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154 12. The sidewalk dining area shall be cleared of non-permanent
155 sidewalk dining furniture within 30 minutes of the closing of the sidewalk dining
156 operation;
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158 13. The service of alcoholic beverages shall be restricted solely to on-
159 premise consumption by customers within the sidewalk dining area. Each of the
160 following standards apply to alcoholic service:
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162 a. The sidewalk dining area must be immediately adjacent to,
163 and abutting the indoor restaurant that provides it with food and beverage service;
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165 b. The sidewalk dining area must be clearly separated from
166 pedestrian traffic;
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168 c. The operator shall post a written notice to customers that the
169 drinking or carrying of an open container of beer or wine is prohibited and unlawful
170 outside the sidewalk dining area;
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172 d. The sidewalk dining operation must be duly licensed by the
173 State Department of Alcoholic Beverage Control (ABC) and shall demonstrate
174 conformance to any and all requirement of the ABC in the application for a Sidewalk
175 Dining Permit.
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177 14. Sidewalk dining is an interruptible or terminable privilege. The City
178 shall have the right and power, acting through the City Manager and his/her designee,
179 to prohibit the operation of a sidewalk dining area at any time because of anticipated or
180 actual problems or conflicts in the use of the sidewalk area. Such problems and
181 conflicts may arise from, but are not limited to, scheduled festivals and similar event, or
182 parades or marches, or repairs to the street or sidewalk, of from demonstrations of
183 emergencies occurring in the area. To the extent possible, the permittee shall be given

184 prior written notice of any time period during which the operation of the sidewalk dining
185 area will be prohibited by the City;

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187 **17.33.060 Application Submittal Requirements**

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189 Prior to establishment of a sidewalk dining establishment, an application must be
190 submitted to and approved by the Planning Commission. Each application shall state
191 the name of the applicant, the name and address of the establishment, the proposed
192 area to be occupied by the tables and chairs, and the hours and days that the area is to
193 be so occupied. The application shall be accompanied by a professionally prepared
194 space use plan indicating the location, number and arrangement of the tables and
195 chairs to be used, the location of the entrance to the establishment, and the location of
196 any existing sidewalk obstructions ~~in the proposed area to be occupied by the tables~~
197 ~~and chairs~~ within 20' from the proposed site location of the proposed outdoor dining
198 area. Trees, traffic signs, benches and all similar obstacles shall constitute obstructions.

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200 **17.33.070 Findings for Planning Commission Approval of Conditional Use**
201 **Permits for Sidewalk Dining Uses**

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203 The Planning Commission shall approve an application and issue a Sidewalk Dining
204 Permit provided the following findings can be made:

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206 1. The proposed sidewalk dining use is consistent with the General
207 Plan;

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209 2. The proposed sidewalk dining use will not adversely affect existing
210 and anticipated development in the vicinity and will promote the harmonious
211 development of the area;

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213 3. The nature, configuration, location, density and manner of
214 operation of any sidewalk dining use proposed will not significantly and adversely
215 interfere with the use and enjoyment of residential properties in the vicinity of the
216 subject property;

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218 4. The proposed sidewalk dining use will not create any significant
219 traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety
220 hazards and will not impede the safe and orderly flow of pedestrians along the public
221 right-of-way;

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223 5. The proposed sidewalk dining use will not create any significantly
224 adverse parking impacts as a result of employee or patron parking demands;

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226 6. The proposed sidewalk dining use will not create any significantly
227 adverse impacts on neighboring properties as a result of:

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229 a. The accumulation of garbage, trash or other waste;

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b. Noise created by operation of the restaurant or by employees or visitors entering or existing the restaurant;

c. Light and glare; or

d. Odors and noxious fumes;

7. The proposed sidewalk dining use will not be detrimental to the public health, safety or general welfare;

8. The proposed sidewalk dining use is compatible with the use and enjoyment of surrounding uses;

9. The proposed sidewalk dining use does not unlawfully alter the associated use of the abutting property;

The business proposing sidewalk dining has previously received all necessary zoning related approvals; and

10. If the Planning Commission approves the service of alcohol in a sidewalk dining area, the approval shall be based upon a finding that serving of alcohol would not create a nuisance to passers-by or to adjoining businesses, or otherwise to create a danger to public health, safety or welfare.

17.33.080 Conditions for Planning Commission Approval of Conditional Use Permits for Sidewalk Dining Uses

A. In approving Conditional Use Permit for sidewalk dining, the Planning Commission may impose such conditions as may be reasonably necessary to protect the public health, safety and general welfare and to ensure that the proposed dining use is established and conducted in a manner which is consistent with this Chapter and the development standards in the underlying commercial district. The conditions imposed by the Planning Commission may address and require, but shall not be limited to, the following:

1. The appropriate setback for the proposed dining use;
2. Pedestrian access and safety;
3. Barrier requirements;
4. Time restrictions;
5. An Encroachment Permit for sidewalk dining;

276 6. A hold harmless agreement executed and provided to the City prior
277 to establishment of an sidewalk dining;

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279 7. This Conditional Use Permit is not transferable to any entity or
280 person and is valid only to the original applicant;

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282 8. Establishment of sidewalk dining shall not involve any modification
283 of the texture of the surface of the public walkway;

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285 9. No amplified music or entertainment is permitted outdoors;

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287 10. Roof coverings shall not have the effect of creating a permanent
288 enclosure;

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290 11. All sidewalk dining areas shall be continuously supervised by
291 management or employees of the business to which they are connected to ensure
292 required pathways are kept clear and to ensure that the sidewalk dining area remains
293 clean;

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295 12. All entrances and emergency exits shall be kept free of obstructions
296 of ingress and egress;

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298 13. No items may be placed in existing planted areas, with the
299 exception of a lawn area;

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301 14. All signage must comply with Calistoga Municipal Code Chapter
302 17.58.

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304 15. No outdoor storage shall be permitted in conjunction with any
305 outdoor use; and

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307 16. Plastic furniture shall be discouraged.

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309 **17.33.090 Revocation of a Sidewalk Dining Permit**

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311 A. A Sidewalk Dining Permit may be revoked by the Planning Commission
312 following notice to the permittee and a noticed public meeting. The permit
313 may be revoked if the Planning Commission finds that:

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315 1. One or more conditions of the permit, or of this Chapter, have been
316 violated;

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318 2. The sidewalk dining area is being operated in a manner which
319 constitutes a nuisance; or

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321 3. The operation of the sidewalk use unduly impedes or restricts the
322 movement of pedestrians.

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324 | **17.33.100 Annual ~~Renewal of a Sidewalk Dining Permit~~ Rental Fee for Use of**
325 | **Right of Way**

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327 | ~~A.—— Thirty (30) days prior to expiration of a Sidewalk Dining Permit, an application for~~
328 ~~renewal shall be submitted to and approved by the Planning Director in accordance with~~
329 ~~Section 17.33.040 C. Procedures of this Chapter. Each application shall state the name~~
330 ~~of the applicant, the name and address of the establishment, the proposed area to be~~
331 ~~occupied by the tables and chairs, and the hours and days that the area is to be so~~
332 ~~occupied.~~

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334 | **B.A.** An annual rental fee shall be imposed on the use of sidewalk dining areas
335 located in the public right-of-way. The rental fee schedule shall be set by resolution of
336 the City Council and may change from time to time by adoption of a City Council
337 amending resolution. In the event that a permit is suspended, rental fees shall be
338 required to be paid during the period of suspension.

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