

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council

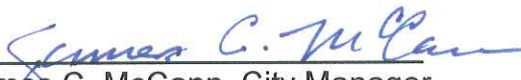
FROM: Erik V. Lundquist, Associate Planner

VIA: Charlene Gallina, Planning and Building Director

DATE: March 17, 2009

SUBJECT: Sidewalk Dining Lease Agreement Template and User Fees

APPROVAL FOR FORWARDING:


James C. McCann, City Manager

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2 **ISSUE:** Consideration of a Resolution establishing sidewalk dining user fees and
3 authorizing the City Manager to execute lease agreements between the City of
4 Calistoga and proprietors of sidewalk dining establishments.

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6 **RECOMMENDATION:** Adopt Resolution.

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8 **BACKGROUND:** On December 2, 2008, the City Council adopted a Sidewalk Dining
9 Ordinance (Ord. No. 654) establishing provisions to authorize sidewalk dining
10 establishments in the public right of way within the commercial land use zoning districts.
11 The Sidewalk Dining Ordinance codified in the Calistoga Municipal Code Chapter 17.33
12 provides, in Section 17.33.100 that an annual lease and the annual fee schedule be
13 established by resolution of the Council.

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15 **DISCUSSION:** Staff reviewed the processes employed by a number of other
16 jurisdictions that allow use of public rights-of-way for sidewalk dining. Based upon this
17 review, it was found that of the jurisdictions that require a lease agreement the City
18 Manager is authorized on behalf of City to enter into such agreements for leasing public
19 rights of way for sidewalk dining purposes upon such terms as may seem advisable to
20 him, and to execute, as agent for the City, said lease agreements in a form acceptable
21 to the Council. Standardizing a lease agreement for execution by the City Manager will
22 streamline the authorization process and allow sidewalk dining establishments to open
23 sooner.
24

25 In addition, this research also revealed that some jurisdictions do not charge a User Fee
26 for commercial use of the right-of-way area. Other jurisdictions charge a flat, yearly fee
27 while others charge a fee based on the size (square footage) of the portion of the right-
28 of-way used for sidewalk dining. Furthermore, some jurisdictions charge a fee based on
29 the number of seats to be used at the sidewalk dining establishment, and in one
30 instance, the City of San Francisco charges were based on a combination of a flat fee
31 and an area-used calculation.

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33 After review of the various methodologies used by other jurisdictions, staff recommends
34 an annual User Fee based on the square footage of the sidewalk dining area. In an
35 attempt to encourage sidewalk dining, while recovering some costs for use of the public
36 right-of-way, staff further recommends that this annual rate be set at \$1 per square foot.

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38 A User fee and standardized lease resolution has also been prepared for adoption by
39 the Council, based on the recommendations above.

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41 **FISCAL IMPACT:** It is projected that additional staff time will be necessary to
42 administer the annual lease agreements per the sidewalk dining ordinance. The
43 proposed fee schedule is as follows:

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45 Annual Permit Fee: \$1 per square feet of sidewalk dining area.

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47 After the initial lease agreement is executed, only annual renewals of the lease would
48 be required. The annual permit fee would be required at the time of lease renewal.

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50 **ATTACHMENTS:**

- 51 1. Draft Resolution
52 2. Standardize Lease Agreement
53 3. Ordinance No. 654