

CITY OF CLE ELUM  
WASHINGTON  
ORDINANCE NO. \_\_\_\_\_

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AN ORDINANCE OF THE CITY OF CLE ELUM, WASHINGTON,  
REPEALING AND RE-ESTABLISHING CLE ELUM MUNICIPAL CODE  
CHAPTER 17.90 RELATING TO SIDEWALK SALES AND SERVICE OF  
FOOD AND BEVERAGE; PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE

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WHEREAS, Title 17 of the Cle Elum Municipal Code (“CEMC”) contains the zoning regulations for the City of Cle Elum; and

WHEREAS, the City Council adopted Resolution 2017-011, the 2017 Downtown Revitalization Plan Preferred Alternative, which includes additional space on sidewalks, new lighting, and street furnishings which will revitalize the downtown commercial core; and

WHEREAS, the revitalized downtown will be capable of supporting sidewalk services and sales beyond what the current sidewalks are capable of accommodating; and

WHEREAS, businesses within Cle Elum’s Commercial zones may obtain a permit to display merchandise, and/or place tables and chairs on the public sidewalk outside their places of business for the purpose of sales and/or for the serving of food and beverage, including alcoholic beverages; and

WHEREAS, food carts and “food trucks” within the City’s Commercial zones may obtain a permit to serve food and beverage upon City sidewalks or parking strips, including placement of tables and/or chairs on the public sidewalk outside of their food carts for the purpose of serving food and beverage; and

WHEREAS, the City Council finds that limited portions of City sidewalk areas can be appropriate locations for the sales of merchandise and service of food and beverage, including alcoholic beverages when authorized by applicable state liquor laws, as an extension of an adjacent business fronting directly upon the sidewalk, subject to reasonable terms and conditions of a sidewalk use permit to be issued by the City Planner or designee; and

WHEREAS, the Planning Commission reviewed the proposed ordinance at their [DATE] regularly scheduled meeting, after a duly noticed public hearing, and forwarded their affirmative recommendation to City Council on [DATE]; and

WHEREAS, the Cle Elum City Council finds that the proposed additions and amendments to Chapter 17.90 CEMC will benefit the public interest, will serve to protect the public health, safety and welfare, and will lead to more consistent application of zoning standards within the City.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF CLE ELUM, STATE OF WASHINGTON, DO ORDAIN as follows:

Section 1. Repealer and Re-Enactment of Chapter 17.90 CEMC, (“Sidewalk Sales and Service of Food and Beverage”). Cle Elum Municipal Code Chapter 17.90 entitled “Sidewalk Sales and Service of Food and Beverage” is hereby repealed in its entirety and a new CEMC Chapter 17.90 is hereby re-enacted to read as follows:

**CEMC 17.90 Sidewalk Sales and Service of Food and Beverage.**

**17.90.010 – Purpose.**

**17.90.020 – Sidewalk Use Regulations.**

**17.90.030 – Permit Approvals.**

**17.90.040 – Validity.**

**17.90.050 – Enforcement.**

**CEMC 17.90.010 – Purpose.**

The City of Cle Elum supports local economic development and vitality and promotes the safe and reasonable use of sidewalks and abutting parking strip areas in commercial zones for the sales of merchandise and the service of food and beverages pursuant to obtaining a sidewalk use permit.

**CEMC 17.90.020 – Sidewalk Use Regulations.**

Sales of merchandise and service of food and beverages on sidewalks or parking strips, including food carts by current abutting business owners with valid City business licenses or by an approved food cart (with signed approval from the abutting property owner) shall be reviewed pursuant to the criteria below. Abutting business owners and food cart operators are hereafter collectively referred to as “merchants”.

A. There is left a free, unobstructed and adequate area for passage of the public that is a minimum of five linear feet;

B. The city may limit the size and number of tables and chairs used for sidewalk sales and services;

C. Service of alcohol shall require the following or as authorized by the Washington State Liquor and Cannabis Control Board regulations (“LCCB”):

i. An approved and current license issued by the LCCB;

ii. If alcohol is served, a barrier no less than 42 inches in height is required. The barrier must be a physical structure that bars movement between two areas and must be movable. The barrier cannot be affixed to the sidewalk surface;

iii. All tables, chairs, and barriers must be visible directly from the interior of the business;

D. All objects placed on the sidewalk must be wind firm and approved by the City Planner or their designee;

E. Merchants may not allow electrical cords or other obstructions to be placed across the sidewalk;

F. All permanent and temporary or moveable sidewalk objects and barriers must be off of the sidewalk during the winter months defined as November 1-April 1;

G. The business owner shall be responsible for removing all trash, garbage, refuse, debris, or any other objects upon the public sidewalk. Any person, firm, or corporation who violates this section may be subject to enforcement pursuant to CEMC 8.60 – Code Enforcement;

H. The business owner makes adequate provision for safe-guarding the public against injury to person and damage to property;

I. The business owner agrees in writing on a form provided by the City, to indemnify and save the city harmless from all claims, suits and liabilities arising in any way out of such use of the sidewalks and/or parking strips;

J. The business owner shall provide proof of insurance with limits and requirements as set forth in the current sidewalk use permit application.

**CEMC 17.90.030 – Permit Approvals.**

A. The City Planner or their designee is authorized to issue sidewalk use permits for the purpose of allowing the use of city sidewalk areas for the display and sales of merchandise and the service of food and beverage, including alcoholic beverages when authorized by applicable state liquor laws, as an extension of a permittee’s adjacent business fronting directly upon the sidewalk..

B. A permit application (and associated fee pursuant to the City Fee Schedule) shall be submitted and approved under such terms for the public safety and convenience as the City shall prescribe, including:

1. Description of the types of goods and/or services proposed;

2. Operating days and hours of the sidewalk use;

3. A site plan of the sidewalk area between the building and curb, describing the following:

- i. Doorway and window locations of the building;
- ii. All permanent and temporary or movable sidewalk objects (e.g., City or private flower planters, street tree wells, street signs, bike racks, trash receptacles, street lights, A-frame signs, etc.);
- iii. Proposed seating area—number and location of all proposed tables and chairs;
- iv. Width of sidewalk in feet (from building to curb);
- v. Distance in feet between sidewalk objects and barrier or seating area, including depiction of 5-foot minimum unobstructed passage;
- vi. Distance in feet between each table, chair, barrier and the adjacent building and curb;
- vii. Locations of adjacent driveways, alleys, and/or curb ramps;
- viii. If required for alcohol service, the location of the required barrier.

4. Signed indemnification statement on the form provided for by the City; and

5. Certificate of Liability Insurance with limits and requirements as set forth in the side walk use permit.

C. The City Planner or their designee have the authority to inspect the sidewalk use at any time and may immediately revoke a sidewalk use permit upon finding a violation of this chapter.

D. Sidewalk use permittees shall be authorized to use the sidewalk under the terms of a valid permit between 6 a.m. and 10 p.m. seven days a week.

**CEMC 17.90.040 – Validity.**

Permit approvals shall generally be valid for a period consistent with Conditional Use Permits, per CEMC 17.100.140(B)(3). Where information upon the original application remains the same, or updates or amendments to the application do not substantially change the permitted use, the permit will remain valid. However, the permit shall require a formal review should the permitted use change, as directed by the City Planner.

**CEMC 17.90.050 – Enforcement.**

Permit requirements shall be enforced by the Code Enforcement Officer, per CEMC 8.60.

Section 2. Severability. Should any portion of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF CLE ELUM AT A REGULAR MEETING THEREOF  
ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

CITY OF CLE ELUM

\_\_\_\_\_  
Jay McGowan, Mayor

ATTEST/AUTHENTICATED:

Kathi Swanson, City Clerk

Approved as to form:

\_\_\_\_\_  
Alexandra L. Kenyon, City Attorney

Filed with the City Clerk:  
Passed by the City Council:  
Date of Publication:  
Effective Date: