

BY: Demarest

**RESOLUTION NO. 2023-20**

**A RESOLUTION TO AUTHORIZE THE NON-PERMANENT INSTALLATION OF A SIDEWALK CAFE ON THE PUBLIC SIDEWALK AT 226 EAST BROADWAY IN FRONT OF THE BUSINESS KNOWN AS "WHIT'S FROZEN CUSTARD" FOR CALENDAR YEAR 2023, SUBJECT TO RESTRICTIONS**

**WHEREAS**, Gary Love, proprietor of Whit's Frozen Custard, has requested Council's permission to install a non-permanent sidewalk cafe on a portion of the public sidewalk in front of his business establishment on East Broadway.

**WHEREAS**, the permits allowing operation of seasonal sidewalk cafés designate the business name and location, the dimensions of the permitted sidewalk café, and conditions of operation. Included as a condition of operation of all such seasonal outdoor cafés is a prohibition on the outdoor service or consumption of alcohol.

**WHEREAS**, due to the effects of the COVID-19 public health emergency and accompanying orders of the Ohio Department of Health, local restaurants have faced significant economic challenges. Continuing requirements for social distancing and ongoing concerns regarding large gatherings in enclosed spaces have increased the demand for, and the economic significance of, available outdoor dining areas.

**WHEREAS**, Village Council temporarily waives the prohibition on the service and consumption of alcohol on the seasonal sidewalk cafés that have been permitted in the Village Business District.

**Section I.** This waiver applies to approved sidewalk cafes provided:

- A) Written request for such temporary waiver is made by the business owner/operator.
- B) The business owner/operator shall show proof of all required licenses, approvals, and/or temporary extensions required by the Ohio Department of Liquor Control for the on-premises sale and consumption of alcohol, and shall comply with all applicable rules and requirements regarding the same. In the event that the Ohio Department of Liquor Control notifies a permit holder that any license, approval or temporary extension has expired, lapsed or been rescinded, the business owner/operator shall adjust operation of its seasonal outdoor café accordingly.
- C) In approving such exemptions on a case-by-case basis, the Village Manager may require proof of reasonable property liability insurance coverage and/or appropriate safety measures as warranted under the particular circumstances.
- D) The business owner/operator shall comply with all other requirements of its existing permit for a seasonal sidewalk café.

**NOW, THEREFORE**, be it resolved by the Council of the Village of Granville, Ohio, that:

**Section II:** Gary Love, d.b.a. Whit's Frozen Custard, is hereby granted permission to install a sidewalk cafe on a portion of the public sidewalk in front of 226 East Broadway subject to the following restrictions:

- A) **The sidewalk cafe area is to be segregated from the rest of the sidewalk by means of planters and/or rope stanchions, or similar moveable fixtures;**
- B) As shown on Exhibit A attached hereto, the café area so segregated is not to exceed twenty (20) feet wide, fifteen (15) feet deep, measured from either side border of the store premises and its building face, respectively;
- C) No exterior lights are to be installed;
- D) The cafe area shall be staffed during all hours of business operation;

E) No cooking shall be permitted outside the existing Whit's Frozen Custard facilities – the sidewalk cafe may engage only in food service, subject to approval by the Licking County Board of Health;

F) Whit's Frozen Custard and its owners shall at all times be responsible for the cleanliness of the sidewalk cafe area;

G) Prior to installation of the sidewalk cafe, Whit's Frozen Custard shall provide the Village of Granville with a certificate of insurance in an amount equal to or greater than one-million (\$1,000,000) / two-million (\$2,000,000) dollars, naming the Village of Granville as an additional insured and certificate holder;

H) When the sidewalk café sales area is in place, any sidewalk sign previously authorized by the Granville Planning Commission for Whit's Frozen Custard shall be displayed within the designated café area as shown on Exhibit A.

I) Outside furnishings are not permitted to advertise commercial messages without sign review and approval by the Granville Planning Commission.

J) No patrons will be permitted in the sidewalk café after 10pm, except during the Bluesfest and Fourth of July festivities.

K) In the event of breach of any of these conditions, the Village Manager, at his sole discretion, may terminate this permit.

**Section III:** Whit's Frozen Custard and its current owner are hereby granted nonexclusive commercial use of the property described herein beginning March 2, 2023 until October 31, 2023. The sidewalk café, including outdoor furniture and moveable fixtures, shall be removed on or before that date. The Village Manager shall have the discretion, upon written request of the property owner or original applicant, to extend the end date of such use beyond October 31, 2023. Non-compliance with Section I, or Section II could result in the denial of future approvals of sidewalk cafes.

**Section IV:** This resolution shall take effect immediately upon passage.


Passed this 1<sup>ST</sup> day of March, 2023.

ATTEST:

  
Autumn Klein, Clerk of Council

  
Melissa Hartfield, Mayor

APPROVED AS TO FORM:

  
William Mattes, Law Director