

RULES AND REGULATIONS FOR SIDEWALK CAFÉS

As promulgated by the Commissioner of Business Affairs & Consumer Protection pursuant to the provisions of Chapter 10-28 and Section 10-28-860 of the Municipal Code of the City of Chicago

I. Application

Applications received as incomplete or containing inconsistent information shall result in delayed processing of your application.

a. Public Way Use Unit

All applications and required documents shall be forwarded to:

City of Chicago
Department of Business Affairs and Consumer Protection
Small Business Center - Public Way Use Unit, City Hall, Room 800
121 North LaSalle Street, Chicago, Illinois 60602

b. Alderman's Recommendation

Applications should contain the recommendation of the Alderman of the Ward within which the Sidewalk Café will be located. Such recommendation shall not be unreasonably withheld.

c. Plan

A Plan shall be submitted on 8 1/2" X 11" paper. The Plan need not be to scale, but shall show exact length and width dimensions of entire Sidewalk Café relative to the associated business, building, curb line, and existing encumbrances on the public way. Public way encumbrances include, but are not limited to, parking meters, fire hydrants, bike racks, light poles, and trees. The Plan shall include all landscaping and design requirements and additional written narrative may accompany the Plan. The Plan shall also identify the location of any heating devices that could be used; however, a café permittee can remove such heating devices during warmer months. This ability to remove items identified on the Site Plan applies only to heating devices. Also include the business name and address as indicated on your business license.

d. Photographs

Photographs shall be clear. They shall depict the proposed site where the Café is to be located and the relationship of the proposed Sidewalk Café to the surrounding public way.

II. Permit

A Sidewalk Café Permit is valid from the date of issuance up to and including the last day February.

a. Account Holds

All holds on your business account shall be resolved prior to the issuance of your Sidewalk Café Permit.

b. Pending Passage

The issuance of a Sidewalk Café Permit is a privilege granted by the City Council. As a courtesy to Sidewalk Café operators, the Commissioner of Business Affairs and Consumer Protection may issue the Sidewalk Café Permit upon introduction and pending passage of the ordinance by City Council. However, the Commissioner shall rescind said Permit if the respective Sidewalk Café ordinance is not passed by City Council. Permits shall be issued after the receipt of the applicable permit fee and insurance certificate.

c. Insurance

After ordinance introduction, applicant shall furnish an insurance certificate and policy endorsement page showing insurance coverage for the duration of the sidewalk café season, as well as showing that the City of Chicago has been added to the applicant's insurance policy as an additional insured pursuant to Municipal Code of Chicago Section 10-28-815:

10-28-815 Insurance required.

Each applicant for a sidewalk café permit shall furnish proof of insurance evidencing commercial general liability insurance with limits of not less than \$500,000.00 per occurrence, \$1,000,000.00 in the aggregate, for bodily injury, personal injury and property damage liability. The insurance shall provide for 30 days' prior written notice to be given to the City of Chicago if coverage is substantially changed, canceled or non-renewed.

The City of Chicago shall be named as an additional insured on a primary non-contributory basis for any liability arising directly or indirectly from the operations of a sidewalk café. Apart from and separate from any insurance requirements under this section the permittee shall indemnify, defend and hold the city harmless from any loss that results directly or indirectly from the permit issuance.

In addition, if alcoholic beverages will be served at the sidewalk café, the applicant shall provide proof of liquor liability (dram shop) insurance for the sidewalk café as required in Section 4-60-040(c)(2) of this code; provided, however, if alcoholic beverages will be served at a sidewalk café operated by an indoor retail market, the owner or manager of the indoor retail market shall provide proof that each retail food establishment serving alcoholic beverages at the sidewalk café has obtained liquor liability (dram shop) insurance for the sidewalk café as required in Section 4-60-040(c)(2) of this code.

Each sidewalk café permittee shall maintain the insurance coverage required under this section for the duration of the sidewalk café permit. Proof of insurance shall be presented to the commissioner prior to the issuance of a permit under this article. Failure of the permittee to maintain the insurance required by this section shall result in the revocation of the sidewalk café permit.

(Added Coun. J. 3-15-00, p. 27687, § 4; Amend Coun. J. 3-9-11, p. 113789, § 1; Amend Coun. J. 10-28-15, p11951, Art. VI, §40; Amend Coun. J. 11-16-16, p. 37901, Art. II, §39)

Certificates of insurance shall be renewed at least 30 days prior to the expiration of the policy. If the licensed establishment has an address range on their City of Chicago licenses, the Certificate of Insurance must match the range on the licenses.

If alcoholic beverages will be served at a sidewalk café operated by an indoor retail market, the owner or manager of the indoor retail market shall provide proof that each retail food establishment serving alcoholic beverages at the sidewalk café has obtained liquor liability (dram shop) insurance for the sidewalk café.

d. Annual Fee

Fees for Sidewalk Café Permits shall be paid upon ordinance introduction and are non-refundable. Permits are revocable by the Commissioner of Business Affairs and Consumer Protection at any time.

III. Operation

a. Permit/Plan Display and Capacity Requirement

The Sidewalk Café Permit and approved plan shall be conspicuously displayed on the exterior wall or window of the main entrance of the licensed retail food establishment during all hours of operation. The boundaries of the Sidewalk Café, including the physical boundary separating the permitted outdoor seating from the remainder of the public way, shall reflect the approved plan and shall not be modified or altered unless approved by the Commissioner. The arrangement and number of tables and chairs within the authorized boundaries of the Sidewalk Café shall reflect the approved plan and shall not be substantially changed, altered, added to or reduced without the approval by the Commissioner. Tables and chairs shall always be set up and maintained in a manner ready for access and use by patrons. Seating must be structurally sound and may not be attached, anchored or suspended to the barriers, the sidewalk or any part of the sidewalk café. In addition, the capacity of the Sidewalk Café shall not exceed the approved seating capacity number on the Sidewalk Café Permit. At no time may the Sidewalk Café be used in excess of the approved seating capacity to allow for standing room patrons.

b. Responsibilities of Sidewalk Café Permittee

A Sidewalk Café permittee is responsible to the community surrounding the Sidewalk Café premises. It is the affirmative duty of a Sidewalk Café permittee to report promptly to the police department all illegal activity reported to or observed by the permittee on or adjacent to the permitted Sidewalk Café premises; to answer fully and truthfully all questions of an identified police officer who inquires or investigates concerning persons or events on or adjacent to the permitted Sidewalk Café premises; to cooperate with the police in any such inquiry or investigation, including the giving of oral or written statements to the police at reasonable times and locations in the course of investigations; and to sign a complaint against any person whom the licensee observes in any illegal conduct or activity on or adjacent to the permitted Sidewalk Café premises. For purposes of this rule, "Adjacent" means: (1) any public way located immediately next to a Sidewalk Café premises; or (2) any private property that is located immediately next to a Sidewalk Café premises, if such private property is owned, leased or rented by the permittee or permittee's property owner; or (3) any private property separated from a Sidewalk Café by a public way and located immediately next to such public way, if such property is owned, leased or rented by the permittee or the permittee's property owner.

c. Year-round Operation

While Sidewalk Cafés are now permitted year-round, approved cafe space is not intended for any use except for that of operating a Sidewalk Café. If the café is set-up in the permitted area, the café must remain operational (tables and chairs set up and ready for patrons to have service). The designated café area cannot be used for winter month storage of café structures (barriers, tables, and chairs), nor for the storage of snow.

If a Sidewalk Café permittee chooses to offer café service year-round, the following shall be complied with:

No enclosures of the Sidewalk Café.

While a canopy or awning can be used to provide overhead coverage, complete enclosure of a sidewalk café is prohibited, as this would technically add to the square footage of the licensed premises. Further, structures cannot be secured into the sidewalk. Any partial enclosure, including overhead, must comply with the Chicago Building Code, Fire Prevention Code, and the Department of Buildings' permit requirements.

Heating equipment.

All heating equipment shall comply with existing Fire Prevention Code regulations, including the prohibition on the storage of propane tanks inside the main building (M.C.C. 15-26-540).

The Chicago Fire Department recommends that any use of outdoor heating equipment comply with the following:

- any equipment be “UL listed” or “UL classified,” meaning the equipment has been tested for such use by Underwriters’ Laboratories and has the UL marking;
- operators should abide by any recommended safety guidelines issued with a specific product (see the product’s operations manual);
- the heating equipment should be unplugged or disconnected for overnight storage; and
- employees should be trained in proper installation of fuel tanks and in detecting leaks.

Any heating equipment used by a Sidewalk Café permittee shall be located at least three feet in any direction from any structure (i.e., building, trees, or furniture).

Any heating equipment used by a Sidewalk Café permittee shall be identified on the Site Plan submitted as part of the permit application.

d. Snow Removal and Snow Threshold to Remove Café

Sidewalk Café operators must comply with Municipal Code of Chicago Section 4-4-310:

4-4-310 Public ways – Maintenance – Littering prohibited – Snow and ice removal.

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(c) (1) It shall be the duty of each licensee licensed under Title 4 to remove snow and ice, as provided in this section, from the sidewalk abutting the licensed premises and any sidewalk ramps intersecting such sidewalks, creating a clear path of at least five feet in width.

(2) Snow which falls or accumulates between the hours of seven a.m. and seven p.m. shall be removed as soon as practicable, but no later than ten p.m. of the same day. Snow which falls or accumulates overnight between the hours of seven p.m. and seven a.m. shall be removed as soon as practicable, but no later than ten a.m. of the same day.

(3) If snow in the sidewalk is frozen so hard that it cannot be removed without damage to the pavement, the licensee shall, within the time specified for removing the snow, strew, or cause to be strewn, the sidewalk with sand, abrasive material or other products made for the purpose of mitigating slipping hazards and preventing the accumulation of ice, and shall, as soon thereafter as the weather shall permit, thoroughly clean the sidewalk.

(4) Any licensee, whether individually or in cooperation with other persons or community groups, who removes snow or ice from the public sidewalk or street shall not, as a result of his acts or omissions in such removal, be liable for civil damages. Provided, however, that this subsection (c)(4) shall not apply to any person who violates Section 8-4-

120 of this Code, or to acts or omissions amounting to willful or wanton misconduct in removing such snow or ice.

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Nonetheless, when enough snow has accumulated on the sidewalk, it shall be the duty of Sidewalk Café permittees to remove the café from the public right of way, regardless of snow removal also taking place:

For Sidewalk Cafes abutting the building

Once two inches of snow has accumulated on the sidewalk, the Sidewalk Café must be broken down and removed from the public right of way.

For Sidewalk Cafes abutting the street

Once any amount of snow accumulation has occurred, the Sidewalk Café must be broken down and removed from the public right of way.

e. Alcoholic Beverage Service Responsibility

A Sidewalk Café permittee has an affirmative duty to prohibit any patron from leaving the Sidewalk Café premises with any alcoholic liquor, except in a package properly sealed, bagged and receipted pursuant to Section 633 of the Liquor Control Act of 1934, added by P.A. 941047, effective January 1, 2007, and codified at 235 I.L.C.S. 5/6-33, as amended.

If alcoholic beverages are served at a sidewalk café operated by an indoor retail market:

- i. the retail food establishment selling the alcoholic beverages must be validly licensed under the code for such sales;
- ii. the retail food establishment serving the alcoholic beverage has maintained its liquor liability (dram shop) insurance when serving the alcoholic beverage; and
- iii. the alcoholic beverages must be served in plastic cups which shall clearly identify the retail food establishment from which each alcoholic beverage was purchased.

BYOB (Bring Your Own Bottle of liquor) is not allowed in a Sidewalk Café.

f. Beautification and Landscaping

The Sidewalk Café applicant should prepare a beautification and landscaping plan for the railing, barriers, and seating arrangement that is consistent with the City of Chicago's objective of developing attractive tree-lined streets, aesthetically-pleasing boulevards, and greener neighborhoods that contribute to the dynamism and diversity of Chicago.

All planter boxes, plant material, and beautification artifacts within shall be maintained throughout the entire time the Sidewalk Café is present on the public way. Planter boxes, plant material, and beautification artifacts shall not extend over the permitted seating area, shall not interfere with the accessible route provided for people with disabilities, and will not protrude more than 4 inches into any circulation path at a height 27 – 80 inches above the ground.

Any exceptions to an approved beautification and landscaping plan must be approved by the Commissioner of Business Affairs and Consumer Protection.

If a Sidewalk Café permittee chooses to offer café service during colder temperatures, the beautification and landscaping requirements still apply. However, the plan reflecting such beautification and landscaping can make clear that any living plants or organic materials will be swapped out for alternative beautification materials during months when such plant life is unsustainable.

g. Boundary and Clearance

The boundary shall enclose the permitted area from the remainder of the public way, and be maintained in accordance with the approved plan. The boundary shall be no less than 24

inches or more than 36 inches in height and shall include cane detectable barriers located 27 inches or less above the ground. The boundary shall be durable so that it shall not collapse or fall over due to wind or incidental contact with patrons or pedestrians. The boundary may have movable sections to aid in public access to seating as long as the boundary complies with the submitted plan. The boundary shall be maintained in place during operating hours. No boundary may be stabilized by bolting it to the sidewalk.

The boundary shall be designed to leave at least 6 feet of clear and unobstructed Sidewalk space to allow for pedestrian passage. Clearance between the Sidewalk Café and all public way encumbrances shall also be at least 6 feet. Sidewalk Cafés located along the curb shall allow a minimum clearance of one (1) foot from the Sidewalk Café to the edge of the curb.

The Sidewalk Café's boundary and furniture may be placed on the public way once the Permit is issued, and shall be removed on the expiration date noted on the Sidewalk Café Permit. Any Sidewalk Café in operation or continuing to keep the boundaries and/or furniture on the public way shall be subject to removal and citation.

Non-permissible enclosure of City property, within the boundaries of the Sidewalk Café, shall include, but not limited to, parking meters, fire hydrants, newspaper stands and boxes. These types of items can be identified as items which must be accessible to the public or to the City for emergency services.

Sidewalk Cafés Permits shall only be issued to the address stated on the respective applicant's retail food license. No portion of the Sidewalk Café may expand to include neighboring businesses, residences, or empty lots.

Any exceptions to the Boundary and Clearance Requirements must be approved by the Commissioner of Business Affairs and Consumer Protection.

- h. **Parkways**
Sidewalk Cafés cannot be located on parkways with existing grass surfaces.
- i. **Debris**
All areas surrounding the Sidewalk Café shall be policed by the permittee's staff to ensure the removal of all wrappings, litter, debris and food. Daily sanitary cleaning is required. Sidewalks shall be kept clean, and food from the Café shall not be disposed of in city trash containers.
- j. **Operating Hours**
Sidewalk Cafés shall not operate earlier than 8:00 am and no later than 12:00 am, unless otherwise specified on your Permit. No activity is allowed within the limits of the Sidewalk Café outside of its approved operating hours as noted on the respective permit.
- k. **Smoking**
Pursuant to the "Chicago Indoor Air Ordinance of 2008," smoking is only allowed within the limits of a Sidewalk Café as long as it occurs fifteen (15) feet beyond any entrance(s), exit(s), window(s) that open, and ventilation intake(s) of a public place or place of employment.

No smoking is allowed within the limits of a Sidewalk Café outside of the Sidewalk Café's approved operating hours as noted on the respective permit.
- l. **Employees**
Sidewalk Café employees shall be subject to and comply with all applicable requirements and standards for a retail food establishment.
- m. **Patrons**
Patrons shall wear shoes and shirts at all times.

n. Pets

Service Animals are not pets and are allowed within all Sidewalk Cafés. Dogs that are not service animals are allowed in all Sidewalk Cafes that are accessible from the street. The former Retail Food Establishment-Supplemental License for Dog-Friendly Areas has been eliminated but the rules that govern this activity are still in effect under the Municipal Code of the City of Chicago 4-8-031, excerpted below:

- The Sidewalk Café operator may designate a dog-friendly area within the Sidewalk Café but may not require that people accompanied by dogs acting as service animals use that area;
- Dogs, other than service animals, shall not be permitted to be in or travel through any indoor portion of the retail food establishment, or in any area where food is prepared;
- Permittees have the right to have the owner of any dog, including dogs acting as service animals remove the dog from the premises, if the dog is not housebroken, if the owner of the dog fails to exercise reasonable control over the dog, or if the dog behaves in a manner that compromises or threatens the health or safety of restaurant patrons or staff;
- Dogs, other than service animals, must bear a current rabies vaccination tag or a City of Chicago license;
- In the event any patron's dog bites or attacks a person while on the sidewalk cafe's premises, the licensee shall immediately notify 311;
- Sidewalk Café employee's shall not have contact with the dogs. If any employee has contact with a dog or a surface touched by a dog, the employee shall immediately wash his/her hands before continuing with any food service work.

o. Deck

No portion of the Sidewalk Café can be elevated in the style of a deck.

p. Scaffolding and Construction Canopies

Sidewalk Cafés cannot operate under scaffolding or construction canopies.

q. Food Service

A Sidewalk Café Permit may only be granted to an establishment with a valid Retail Food Establishment license where the primary business activity in the Sidewalk Café is the service of prepared food and non-alcoholic beverages. As such, prepared food and non-alcoholic beverages must be offered for sale and for immediate consumption at all times the Sidewalk Café is operational.

If the applicant is the owner or manager of an indoor retail market, then the owner or manager of the indoor retail market is not required to obtain a Retail Food Establishment license.

In the event a business applies for a Sidewalk Café Permit, holds a tavern license for their primary business activity, and also holds a Retail Food Establishment license, the service of prepared food and non-alcoholic beverages must be available at all times to any customer during the time the Sidewalk Café is open and occupied. For the purposes of this section, the service of snacks such as pre-packaged foods (potato chips, pretzels, etc.) shall not be considered "prepared."

IV. Compliance

a. Penalties

Any Sidewalk Café permittee who violates these Rules and Regulations or any part thereof adopted by the Department under authority vested in it by Section 10-28-860 of the Municipal Code of the City of Chicago will be subject to the enforcement and penalties as prescribed in Sections 4-60, 4-4-280, 10-28-855, 10-28-860, 10-28-870, 10-28-875 and 10-28-880 of the

Municipal Code of the City of Chicago and to the penalties as prescribed in the Illinois Liquor Control Act of 1934.

- b. Enforcement
Complaints regarding Sidewalk Cafés will be investigated by the Department of Business Affairs and Consumer Protection and violations of the rules and regulations heretofore promulgated will result in citations and possible revocation of the Sidewalk Café Permit.

V. Indoor Retail Market Sidewalk Café

- a. Additional Application Requirements
Indoor Retail Markets must list all participating Retail Food Establishments at the time of application.

All listed restaurants must have a current Retail Food Establishment license.

- b. Changes to participants in the Retail Market
If there are any changes, with regard to participating restaurants, the Indoor Retail Market must notify the Public Way Use Unit of the Department of Business Affairs and Consumer Protection immediately.
- c. Insurance
Insurance shall be provided by the Indoor Retail Market, for the sidewalk café, to indemnify the City.

All Indoor Retail Market participants serving liquor must provide dram shop insurance.