

CITY OF CHICAGO MUNICIPAL CODE

ARTICLE XII. SIDEWALK CAFÉS

10-28-800 DEFINITIONS.

Wherever used in this article, unless the context clearly indicates otherwise:

- (A) Alcoholic beverages mean and include alcohol, spirits, wine and beer.
- (B) Department means the Department of Business Affairs and Consumer Protection of the City of Chicago.
- (C) Commissioner means the Commissioner of the Department of Business Affairs and Consumer Protection of the City of Chicago.
- (D) Food means any raw, cooked or processed edible substance or ingredient, used or intended for use in whole or in part for human consumption, and shall include nonalcoholic beverages allowed to be sold in accordance with this article, but shall not include alcoholic beverages.
- (E) Person is defined as provided in Section 1-4-090(e) of the code.
- (F) Sidewalk Café means a portion of an immobile retail food establishment located on a public right-of-way, whether directly adjacent to, or in close proximity to, the retail food establishment.

10-28-805 PERMIT REQUIRED FOR SIDEWALK CAFÉ.

A permit, which shall be known as a Sidewalk Café permit, shall be required to operate a Sidewalk Café. A Sidewalk Café permit shall be valid for one year, from March 1st to and including the last day of February. The fee for a Sidewalk Café permit shall be determined by the Commissioner, taking into account land values, and shall be set forth by rule.

10-28-810 PERMIT APPLICATION AND APPROVAL PROCEDURE.

Application for a Sidewalk Café permit shall be submitted to the Commissioner, who shall make available forms for this purpose. The applicant shall provide such information on the application as the Commissioner may require by regulation, including:

- (A) Proof that the applicant holds a valid retail food establishment license issued to the establishment that will provide food for the Sidewalk Café.
- (B) A proof of insurance as required by this article.
- (C) A plan for the Sidewalk Café, complying with applicable regulations, and demonstrating that the sidewalk café shall not unreasonably interfere with: (1) adequate pedestrian flow, (2) access to building entrances; (3) pedestrian and traffic safety; and (4) the aesthetic quality of the surrounding area.

10-28-815 INSURANCE REQUIRED.

Each applicant for a Sidewalk Café permit shall furnish a certificate 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 combined single limit, 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.

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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; and 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, of such type and in such amounts as required by the code.

Each permittee shall maintain the insurance coverage required under this section during the period. The certificate(s) 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.

10-28-820 REVIEW OF APPLICATION.

The department shall review a submitted application for compliance with this article and regulations.

(A) Except with regard to renewal applications governed by subsection (B), if the commissioner finds that the applicant meets the requirements of this article and the regulations promulgated hereunder, the commissioner shall provide the application to the alderman of the affected ward, together with a recommendation for introduction of an ordinance approving the application. Such approval shall not be unreasonably withheld. Once an ordinance approving the application is effective, the commissioner shall issue the sidewalk café permit to the applicant.

(B) For purposes of this section, “renewal application” means an application for the operation of a sidewalk café at the same location and by the same person approved by the city council within the previous 12 months.

If the commissioner finds that a renewal application meets the requirements of this article and the regulations promulgated hereunder, the commissioner shall prepare an ordinance, which ordinance may include a group of renewal applications, for approval by the city council. Such approval shall not be unreasonably withheld. Once an ordinance approving the renewal application is effective, the commissioner shall issue the sidewalk café permit to the applicant.

(C) If the commissioner finds that the applicant fails to meet the requirements of this article or the regulations promulgated hereunder, or if approval by ordinance is withheld, the commissioner shall deny the application or renewal application. The commissioner shall notify the unsuccessful applicant in writing of the denial and the reasons therefor within ten business days after the denial. An applicant for renewal that was subjected to, or eligible for, temporary closure as a result of violations pursuant to Section 10-28-870(D) during the prior permit period, if those violations have been finally adjudicated and sustained, shall be subject to: (i) denial of the renewal or (ii) having the renewal conditioned upon a written plan of operation or other set of conditions that the commissioner determines is necessary to ensure compliance with this Chapter. An applicant for a permit that was issued two or more notices of violation pursuant to Section 10-28-870(C) during the prior permit period, if those violations have been finally adjudicated and sustained, shall be subject to denial of the permit for the permit period applied for.

10-28-825 COMPLIANCE WITH PLAN AND OTHER COMPONENTS OF APPLICATION.

(A) Each Sidewalk Café shall comply in all respects with the specifications set out in the plan submitted to the Commissioner, and with the other components of the application.

(B) In the event that the application, including the plan, becomes inaccurate or incomplete in any respect as a result of circumstances or events outside the control of the permittee, the permittee shall notify the Commissioner within three business days of such circumstances or events.

(C) Before taking any action that would result in the application, including the plan, becoming inaccurate or incomplete in any respect, the permittee shall seek the prior approval of the Commissioner.

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(D) Upon being notified of an actual or contemplated change pursuant to either subsection (B) or (C) of this section, the Commissioner shall review the change to determine if such change is insubstantial or substantial, using the same criteria as relevant to the Commissioner's consideration of an initial application. If such change is insubstantial and if the application, as so changed, meets the criteria for an initial application, the Commissioner shall approve the change. If such change is insubstantial and if the application, as so changed, does not meet the criteria for an initial application, the Commissioner shall disapprove the change. If such change is substantial, a new permit application shall be required.

10-28-830 PERMIT--ASSIGNMENT OR TRANSFER PROHIBITED.

No permittee shall assign or transfer a Sidewalk Café permit.

10-28-835 PERMIT FOR ONE RETAIL FOOD ESTABLISHMENT ONLY.

A Sidewalk Café shall be for the exclusive use of the licensed retail food establishment stated on the application. Sharing or other joint use of a Sidewalk Café location by more than one retail food establishment shall not be permitted.

10-28-840 PERMIT FOR FOOD AND ALCOHOLIC BEVERAGE SERVICE ONLY.

A Sidewalk Café permit shall only authorize food and alcoholic beverage service at the Sidewalk Café. Regardless of what other activity may take place inside the establishment pursuant to license or permit, such activity shall not be allowed at the Sidewalk Café by virtue of the Sidewalk Café permit.

10-28-845 OPERATIONAL CONDITIONS.

(A) Sidewalk Cafés permitted under this article shall not operate earlier than 8:00 a.m. nor later than 12:00 midnight.

(B) Sidewalk Cafés permitted under this article shall not play music, whether live or recorded, nor allow music to be played at the Sidewalk Café, other than through headphones.

(C) The operator of a Sidewalk Café shall install and maintain a physical boundary separating the permitted outdoor seating from the remainder of the public way. The operator shall leave six feet of public way unobstructed for pedestrian passage; the Commissioner may alter this requirement by regulation in a situation where adherence to the requirement would make operation of a Sidewalk Café impossible and reduction of the unobstructed portion of the public way would not compromise pedestrian safety. The construction, configuration and other characteristics of the boundary, including landscaping, shall be set forth by regulation.

10-28-850 ALCOHOLIC BEVERAGE SERVICE--REQUIREMENTS.

If alcoholic beverages are served at the Sidewalk Café, the operator must be validly licensed under the code for such sales. Alcoholic beverages supplied by the customer or by any person other than the permittee will not be allowed at Sidewalk Cafés.

10-28-855 COMPLIANCE WITH CODE AND RULES AND REGULATIONS REQUIRED.

All holders of a Sidewalk Café permit and their employees shall be subject to and comply with all applicable requirements and standards for retail food establishments contained in the code, as amended, and the rules and regulations promulgated hereunder, and all laws, rules and regulations pertaining to the sale of alcoholic beverages.

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10-28-860 PROMULGATION OF REGULATIONS; FORCE AND EFFECT.

(A) The Commissioner is authorized to promulgate regulations to carry out the purposes of this article, including without limitation regulations governing:

- (1) The location, arrangement and design of Sidewalk Cafés to ensure the flow of pedestrian traffic, the safety of pedestrians and auto traffic, the access to buildings and transportation facilities, the prevention of an excessive number of cafés, and the best service to the public;
- (2) The size, design and other specifications for tables and serving equipment to be used by operators, and the design of enclosures or partial enclosures;
- (3) The types of food and beverages that may be served at Sidewalk Cafés;
- (4) The time periods during which application can be made for a Sidewalk Café permit;
- (5) Landscaping and other aesthetic components of the Sidewalk Café; and
- (6) Any other matter pertaining to this article.

(B) A permittee shall comply with the regulations promulgated pursuant to this article, which shall have the force and effect of law.

10-28-865 HEARINGS.

The Commissioner may hold formal and informal hearings prior to the promulgation of rules and regulations as the Commissioner deems necessary. All such hearings shall be open to the public.

10-28-870 ENFORCEMENT.

(A) The Commissioner or his designee is authorized to take such action as necessary to enforce the provisions of this article, including conducting on-site inspections of Sidewalk Cafés associated retail food establishments to determine compliance with the permitting and other requirements of this article and regulations promulgated hereunder.

(B) Upon request by the Commissioner or his designee, the operator of a Sidewalk Café shall provide for inspection the documents required by this article to operate a Sidewalk Café, including the Sidewalk Café permit, the plan for the Sidewalk Café, and proof of insurance.

(C) Any Sidewalk Café for which a permit is required by this article, and which has failed to obtain such permit, may be closed by the Commissioner or his designee until such permit is procured. Upon being notified of closure, all sidewalk café activity must cease, and all obstructions in the public way, including boundaries, tables and chairs, must be removed.

(D) Any sidewalk café for which a permit is in effect under this article may be temporarily closed by the commissioner or his designee, if the café has been issued notices of violation on three different days during the permit period, each of which pertains to a significant breach of public safety. Non-limiting examples include: (i) café footprint or café-related objects or equipment on property beyond plan specifications, (ii) a missing or incomplete barrier, or (iii) signs, serving tray stands or other objects in the public way. Upon being subjected to a temporary closure, the permittee may provide to the commissioner evidence that the objectionable conditions have been fully remedied. Such temporary closure shall remain in effect until the commissioner is satisfied that the violations have been properly remedied and will not reoccur.

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10-28-875 VIOLATION--PENALTIES.

(A) Any person who violates any of the provisions of this article or regulations promulgated hereunder shall be subject to a fine of not less than \$200.00 nor more than \$500.00 for each offense, and each day such a violation continues shall be deemed a separate and distinct offense.

(B) In addition to the above fine, and any person who knowingly interferes with or impedes the Commissioner, or investigator, of the Department of Business Affairs and Consumer Protection in the enforcement of this article shall be subject to arrest by a duly authorized peace officer of the department and imprisonment for a term not to exceed six months under the procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code and under the provisions of the Illinois Code of Criminal Procedure,

(C) Any sidewalk café in operation without a valid sidewalk café permit or subject to Section [10-28-870](#)(D) is subject to removal from the public way by the commissioner or his designee. The provisions of Section [10-28-010](#)(i) of the code shall apply to the removal of any portion of a sidewalk café, from the public way, whether for unpermitted operation or for obstruction of public way; provided, however, that the amount of the fine for a violation shall be as set forth in this section.

10-28-880 VIOLATION--PERMIT REVOCATION.

In addition to fines and other penalties as provided for herein, three or more violations of any provision of this article or regulations promulgated hereunder within a permit period shall subject the permittee to revocation of the Sidewalk Café permit by the Commissioner.

10-28-885 SEVERABILITY.

The invalidity of any section or part of any section of this article, or any regulation promulgated hereunder, shall not affect the validity of any other section or part thereof or regulation.
