

CITY OF CHICAGO

RULES



SIDEWALK CAFÉ RULES FOR YEAR-ROUND OPERATION



Mayor Rahm Emanuel

Commissioner Rosa Escareno

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO SECTIONS 2-25 AND 10-28 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES REGARDING SIDEWALK CAFES ARE HEREBY ADOPTED.

By Order of the Commissioner:

Signed:



Commissioner Rosa Escareno

Date: May 2, 2019

Published: May 2, 2019

Effective: May 2, 2019

RULES FOR SIDEWALK CAFÉS

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

I. Application

An application for a Sidewalk Café (“Café”) permit (“Permit”) received as incomplete or containing inconsistent information will result in delayed processing of your application.

a. Public Way Use Unit

All applications and required documents are sent 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

A Café applicant (“Applicant”) should initially submit the application to the alderman of the ward in which the Café will be located. The application form and its instructions provide detail regarding the process to follow. Such recommendation will not be unreasonably withheld.

c. Plan

The Applicant must submit a plan (“Plan”) on 8 1/2" X 11" paper. The Plan need not be to scale, but must show exact length and width dimensions of the entire 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 must include all landscaping and design requirements and additional written narrative may accompany the Plan. The Plan must also identify the location of any heating devices that the Applicant intends to use during cold weather; however, such heating devices may be removed during warmer months. This ability to remove items identified on the Plan applies only to heating devices. Also include the Applicant’s business name and address as indicated on the business license.

d. Photographs

Photographs must be clear. They must depict the proposed location of the Café and its relationship to the surrounding public way.

II. Permit

A Café Permit (“Permit”) is valid from the date of issuance up to and including the last day of February.

a. Account Holds

All holds on your business account must be resolved before the Permit can be issued.

b. Pending Passage

The issuance of a Permit is a privilege granted by the City Council. As a courtesy to Café permittees (“Permittees”), the Commissioner of Business Affairs and Consumer Protection (“Commissioner”) may provisionally issue the Permit upon introduction of the ordinance to City Council. However, the Commissioner shall rescind said Permit if the respective Café ordinance does not pass. Permits cannot issue until after payment of the Permit fee and the Commissioner’s receipt of an insurance certificate that complies with the Municipal Code of Chicago (“Code”).

c. Insurance

After introduction of an ordinance, the Applicant must furnish an insurance certificate and policy endorsement page showing insurance coverage for the duration of the Permit, as well as showing that the City of Chicago has been added to the applicant's insurance policy as an additional insured pursuant to Code 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.

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 the owner or manager of a recognized Indoor Retail Market that will serve alcoholic beverages at a Café must provide proof that each Retail Food Establishment serving alcoholic beverages at the Café has obtained liquor liability (dram shop) insurance for the Café.

d. Annual Fee

Permit fees must be paid upon ordinance introduction and are non-refundable. Permits are revocable by the Commissioner at any time.

III. Operation

a. Permit/Plan Display and Capacity Requirement

The Permittee must conspicuously display the Permit and approved Plan 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 Café, including the physical boundary separating the permitted outdoor seating from the remainder of the public way, must reflect the approved Plan and must not be modified or altered unless approved in advance by the Commissioner. The arrangement and number of tables and chairs within the authorized boundaries of the Café must reflect the approved Plan and must not be substantially changed, altered, added to or reduced without the advanced approval by the Commissioner. Tables and chairs must always be set up and maintained in a manner ready for access and use by patrons during Café operating hours. Seating must be structurally sound and may not be attached, anchored or suspended to the barriers, the sidewalk or any part of the Café. In addition, the capacity of the Café must not exceed the approved seating capacity on the Permit. At no time may the Café be used in excess of the approved seating capacity to allow for standing room patrons.

b. Responsibilities of Café Permittee

The Permittee is responsible to the community surrounding the Café premises. It is the affirmative duty of the Permittee to report promptly to the police department all illegal activity reported to or observed by the permittee on or adjacent to the permitted 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 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 who the Permittee observes engaging in any illegal conduct or activity on or adjacent to the permitted Café premises. For purposes of this rule, "Adjacent" means: (1) any public way located immediately next to a Café premises; or (2) any private property that is located immediately next to a 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 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 Cafés are now permitted year-round, Café space is not intended for any use except for operation of a Café. If the Café is setup in the permitted area, the Café must remain operational (tables and chairs set up and ready to serve patrons during Café operating hours). Café space cannot be used for winter storage of Café structures (barriers, tables, and chairs) or the storage of snow.

A Permittee who chooses to offer Café service year-round must comply with the following:

(1) No complete enclosure.

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

(2) Heating equipment.

All heating equipment must comply with Title 15 of the Code(Fire Prevention), including the prohibition on storage of propane tanks inside the main building (Section 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.

The Permittee must locate heating equipment at least three feet in any direction from any structure (i.e., building, trees, or furniture) while such equipment is in use.

The Permittee must identify the location of any heating equipment on the approved Plan.

d. Snow Removal and Snow Threshold to Remove Café

The Permittee must comply with Code Section 4-4-310, including:

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

...

(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 on 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.

...

Nonetheless, when enough snow has accumulated on the sidewalk, it is the Permittee's duty to remove the Café from the public right of way, regardless of snow removal also taking place:

For Cafés abutting the building:

Once two inches of snow has accumulated on the sidewalk, the Permittee must remove the Café from the public right of way until such snow is removed.

For Sidewalk Cafes abutting the street:

Once any amount of snow accumulation has occurred, the Permittee must remove the Café from the public right of way until such snow is removed.

e. Alcoholic Beverage Service Responsibility

The Permittee has an affirmative duty to prohibit any patron from leaving the 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, and codified at 235 I.L.C.S. 5/6-33.

If alcoholic beverages are served at a Café operated by an Indoor Retail Market:

- i. the Retail Food Establishment selling the alcoholic beverages must be validly licensed;
- 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 must 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 Café.

f. Beautification and Landscaping

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

Any exception to an approved beautification and landscaping plan must be approved in advance by the Commissioner.

If a Permittee chooses to offer Café service during colder temperatures, the beautification and landscaping plan requirements still apply. However, the beautification and landscaping plan 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 must enclose the Café from the remainder of the public way, and be maintained in accordance with the approved Plan. The boundary must be no less than 24 inches or more than 36 inches in height and must include cane detectable barriers located 27 inches or less above the ground. The boundary must be durable so that it will 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 approved Plan. The boundary must be maintained in place during operating hours. No boundary may be stabilized by bolting it to the sidewalk.

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

The Café's boundary and furniture may be placed on the public way once the Permit is issued, and must be removed on the expiration date noted on the Permit. Any Café in operation or that

continues to keep the boundaries and/or furniture on the public way after the Permit expires is subject to removal and citation.

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

Permits can only be issued for the address stated on the Applicant's retail food license. No portion of the Café may expand to include neighboring businesses, residences, or empty lots.

Any exceptions to these boundary and clearance requirements must be approved in advance by the Commissioner.

h. Parkways

A Café cannot be located on a grass parkway.

i. Debris

Permittee must police all areas surrounding the Café to ensure the removal of all wrappings, litter, debris and food. Daily sanitary cleaning is required. Sidewalks must be kept clean, and the Permittee cannot dispose of food or other waste from the Café in City trash containers.

j. Operating Hours

A Café cannot operate earlier than 8:00 a.m. or later than 12:00 midnight, and may be further restricted by the operating hours specified on the Permit. No activity is allowed within the boundary of the Café outside of the approved operating hours.

k. Smoking

Pursuant to the "Chicago Indoor Air Ordinance of 2008," smoking is allowed within the limits of a 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 Café outside of the Café's approved operating hours.

l. Employees

Café employees are subject to and must comply with all applicable requirements and standards for a Retail Food Establishment.

m. Patrons

Patrons must wear shoes and shirts at all times while within the boundary of the Café.

n. Pets

The Permittee must comply with Code Section 4-8-031 concerning dog-friendly areas in a Retail Food Establishment, including any rules promulgated by the Department of Health, and in particular Section 4-8-031(d):

(d) If a retail food licensee allows patrons of the establishment to bring dogs on any portion of the retail food establishment, other than a service animal assisting a person with a disability, the following requirements shall apply:

(1) dogs shall only be permitted in dog-friendly areas;

(2) dogs 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;

(3) any dog not kept on a leash at all times or not kept under control by its owner shall be immediately removed from the retail food establishment's premises. The licensee shall have the right to refuse to serve the owner of any dog if the owner fails to keep the dog on a leash, or to exercise reasonable control over the dog, or the dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the retail food establishment;

(4) only dogs bearing a current rabies vaccination tag or other proof of current rabies vaccinations shall be permitted in the dog-friendly areas;

(5) a sign shall be posted in a conspicuous place in the retail food establishment indicating whether the retail food establishment permits dogs. The size and language on the sign shall be as set forth in the rules of the Department of Health;

(6) the dog-friendly area, including all furniture, fixtures, and walking surfaces, shall be made of hard surfaces that can be washed with soap and water, hosed down and sanitized;

(7) the table and chairs at which patrons with dogs are seated shall be cleaned and sanitized between seating of patrons;

(8) in the event any patron's dog bites or attacks a person while on the retail food establishment's premises, the licensee shall immediately notify 311;

(9) while on the retail food establishment's premises, a dog shall not be provided food, either by the employees or by patrons, though a dog may be provided water;

(10) dogs shall not have any contact with any food, food contact surfaces, serving dishes, utensils, tableware, linens, paper products or any other food serving products; and

(11) the retail food establishment's employees 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 Café may be elevated in the style of a deck.

p. Scaffolding and Construction Canopies

A Café cannot operate under scaffolding or construction canopies.

q. Food Service

A Permit may only issue to a business with a valid Retail Food Establishment license where the primary business activity in the 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 Café is operational.

The owner or manager of an Indoor Retail Market is not required to obtain a Retail Food Establishment license.

In the event a business applies for a Permit, holds a tavern license for its 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 Café

is open and occupied. For the purposes of this section, the service of snacks such as pre-packaged foods (potato chips, pretzels, etc.) are not considered "prepared."

IV. Compliance

a. Penalties

Any Permittee who violates these Rules or any part thereof are 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 Code and to the penalties as prescribed in the Illinois Liquor Control Act of 1934.

b. Enforcement

Any complaint regarding a Café will be investigated by the Department and violations of these Rules will result in citations and potential revocation of the Permit.

V. Indoor Retail Market Café

a. Additional Application Requirements

An Indoor Retail Market 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 Indoor Retail Market

If there are any changes, with regard to participating restaurants, the Indoor Retail Market must notify the Department's Public Way Use Unit immediately.

c. Insurance

The Indoor Retail Market must comply with the insurance requirements in Section II(c). All Indoor Retail Market participants serving liquor must provide dram shop insurance.