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46-0-96  
AN ORDINANCE

Amending Section 7-2-6(D) of the  
Streets, Sidewalks, and Public Ways  
Ordinance Regarding Sidewalk Cafes

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF EVANSTON, COOK COUNTY, ILLINOIS:

WHEREAS, occupation of the public sidewalk for private purposes is a  
privilege, not a right; and

WHEREAS, the operation of a sidewalk cafe is a private purpose; and

WHEREAS, the City Council may, pursuant to its home rule powers,  
rent a portion of the public sidewalk for private purposes; and

WHEREAS, the City Council is desirous of providing for the rental of  
public sidewalk space to allow for operation of sidewalk cafes associated with Type I and  
Type II restaurants,

SECTION 1: That Title 7, Chapter 2 of the Evanston City Code of 1979, as  
amended, is hereby further amended by deleting existing section 7-2-6(D) and substituting  
therefor:

Section 7-2-6(D):

Sidewalk Cafes:

1. Definitions:

Bakery: An establishment for any process of mixing, compounding and baking any  
bread, biscuits, crackers, rolls, cake, pies, or any food products of which flour or meal

is a principal ingredient, for sale at retail or wholesale.

**Ice Cream Store:** An establishment selling primarily ice cream, soda water, frozen yogurt and soft drinks.

**Permanent Bus Service:** An associated wait-staff function of a restaurant which minimally includes, but is not limited to, provision of staff to clean and wipe tables; to police and keep clean the entire area; and to keep tables, chairs, and other furniture and materials associated with the restaurant within the permitted area.

**Restaurant Type I:**

**Type 1:** An establishment in which the principal use is the service of prepared food and beverages for consumption on the premises. All service of prepared food and beverages for consumption on the premises shall require customers to order at a table, booth or dining counter with service by a waiter or waitress at said table, booth or dining counter and also shall require the use of reusable (nondisposable) flatware and dishware. Drive-through facilities are prohibited.

**Restaurant Type II:**

An establishment in which the principal use is the service of prepared food and/or beverages for consumption on and/or off the premises and that is not a "Restaurant Type 1." This definition shall not include establishments wherein incidental prepared food and beverage service is accessory to a bakery, food establishment, convenience store, food store establishment, meat market, or similar principal use nor shall it included cafeterias that are accessory to hospitals, colleges, universities, schools or other similar principal uses.

**Sidewalk Cafe:** A dining area located partially or wholly on a public sidewalk or parkway.

## 2. Permits:

- a. Permits to rent sidewalk space for a sidewalk cafe shall only be granted to the licensed operator of restaurants, bakeries, ice cream stores, as defined in Section 7-2-6(D)(1), above. Sidewalk cafes are not permitted at restaurants, bakeries or ice cream stores located in a residential district or within two hundred feet (200') of an R-1 or R-2 Zoning District. The two hundred feet (200') shall be measured from the lot line of the parcel devoted to said sidewalk cafe to the R-1 or R-2 Zoning District boundary, inclusive of right of way.
- b. Sidewalk cafe permits for Type II Restaurants, as defined in Section 7-2-6(D)(1) above, also shall require the approval of the City Council. The Site Plan and Appearance Review Committee shall review all applications for sidewalk cafes for Type II

restaurants and report to the City Council upon each application with respect to the standards set forth below. The report is to include written findings of fact with respect to each standard and a recommendation as to whether the permit should be granted.

- c. No licensed operator of a restaurant, bakery or ice cream store shall erect, place or maintain in or upon any public sidewalk or parking contiguous or adjacent to said licensed restaurant tables, benches or chairs for the purpose of serving to customers thereon, food and/or beverages for consumption at such sidewalk tables, benches or chairs unless a permit for the same first shall have been obtained from the City Manager in the instance of a Type I restaurant, bakery or ice cream store, or with approval of City Council in the instance of a Type II restaurant.
  - d. Term of Permit: A licensed restaurant, bakery or ice cream store operator annually may apply for and obtain a sidewalk cafe permit. The sidewalk cafe permit shall be effective only for the period April 1 through November 1 of the calendar year for which the City has issued it.
3. Permit Application: At the time of making application for a permit, the applicant shall furnish the following information to the City Manager or his designee;
- a. Name and mailing address of the applicant and the proposed outdoor cafe.
  - b. A detailed drawing to scale of the proposed site indicating the following: the existing facade; the points of ingress and egress; and the proposed location of the tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facilities to be included in the cafe operation. The detailed scale drawing must indicate the location of existing public improvements including the following: fire hydrants, parking meters, street lights, traffic signals, street signs, bus shelters, trees, tree grates, planting boxes and/or planting areas, and any public or private obstruction. A plat of survey may be required.
  - c. A statement of use as Type I or Type II Restaurant, ice cream store or bakery of the principal use.
  - d. A menu of the proposed service. Any restaurant which is prohibited by this section 7-2-6(D) from serving alcoholic beverages must provide evidence that the menu will so indicate.
  - e. A hold harmless statement in a form specified by the City.
  - f. A certificate of insurance covering the period of the outdoor operations, including coverage of comprehensive general liability insurance and other appropriate coverage for these types of business activities in the amount of one million dollars

(\$1,000,000.00) per occurrence and (\$500,000.00) five hundred thousand dollars per person. The City is to be named as an additional insured on the face of the certificate with an insurance company with a B+ rating or better. Any changes or cancellations shall require that the City be notified in writing at least thirty (30) days prior to the effective date of the change or cancellation.

- g. A copy of a valid business license or liquor license (if applicable) issued by the City.
  - h. An acknowledgement that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafes.
  - i. An annual permit fee in the amount of one hundred dollars (\$100.00) plus one dollar (\$1.00) per square foot of the public right-of-way to be occupied.
4. Unobstructed Passage. At all times the licensed restaurant operator must:
- a. Maintain a clear distance of a minimum of five (5) unobstructed feet in width, measured from the sidewalk curb and from any public improvements within the right of way, including but not limited to, parking meters, signs, and planters to the ropes or chains delimiting the sidewalk cafe area as indicated on the approved permit;
  - b. Not interfere with the passage of pedestrians, vehicle flow, or access to buildings;
  - c. Not place sidewalk tables, benches, or chairs within fifteen feet (15') of a fire hydrant, pedestrian crosswalk, corner, bus stop or taxi stand or within fifteen feet (15') of areas containing trees or plantings;
  - d. Not utilize any of the required or non-required parking space area for sidewalk tables, benches, chairs or other furniture and materials associated with the sidewalk cafe.
5. Rules and Regulations for All Sidewalk Cafes:
- a. Licensed Type I restaurants, possessing an alcoholic beverage license of any classification and located within the core area as defined in Section 3-5-1 of the City Code, may sell alcoholic liquor on sidewalk cafe premises. Such sale of alcoholic liquor shall be for consumption on the premises only with the consumption of a meal. This provision must be clearly stated on sidewalk cafe menus.

Licensed restaurants, possessing an alcoholic beverage license of any classification, but located outside the core area, as defined in section 3-5-1 of the City Code, and all Type II restaurants are prohibited from serving alcoholic liquor on the sidewalk cafe premises or allowing any patron to consume or have in his or her possession any alcoholic liquor on said cafe premises. Licensed restaurants outside the core area which serve alcoholic liquor in the principal establishment and Type II restaurants

which serve alcoholic liquor in the principal establishment must clearly state on the menu for outdoor service that the sale and/or consumption of alcoholic liquor is prohibited.

- b. At all times, including while being stored, prepared, displayed, served or transported to the table, food shall be protected from potential contamination by being covered and/or refrigerated, if necessary.
  - c. Reusable, nondisposable flatware, dishware and beverage containers, are required for use in association with all sidewalk cafes. No food, or beverage, including water, shall be served in, on, or with paper, plastic, or polystyrene plastic dishes or utensils, nor shall any food or beverage be served to the customer wrapped or packaged in foil, paper, plastic, or polystyrene plastic. The use of nondisposable beverage containers may be waived by the City Council upon a showing of good cause.
  - d. When associated with Type I Restaurants, food or beverages consumed at sidewalk tables, benches, or chairs, must be served by a waiter or waitress of the restaurant at said tables, benches, or chairs. When associated with Type II Restaurants a sidewalk cafe shall provide bus service during all hours of operation.
  - e. The licensed restaurant operator must maintain the exterior of the premises, including the sidewalk cafe area, in accordance with applicable regulations of the Evanston Health Department and Public Works Department. This duty to maintain extends to the removal of all litter, regardless of its source.
  - f. Sidewalk tables, benches, or chairs may not be attached by any means to the public sidewalk or any other public property.
  - g. Sidewalk tables, benches, or chairs shall be stored inside the restaurant during off-business hours.
  - h. A sidewalk cafe shall not be open for business when the interior aspect of the business is not open for business.
  - i. No animals, including pets, except for seeing-eye dogs, shall be allowed in the areas utilized for sidewalk tables, benches or chairs.
  - j. During all sidewalk cafe business hours, the permittee must delimit the sidewalk cafe area as indicated on the approved permit by surrounding it with ropes or chains.
6. A. Standards for Approval of a Permit for a Sidewalk Cafe for a Type II Restaurant: The Site Plan and Appearance Review Committee will review all applications for sidewalk cafes for Type II restaurants and will report to the City Council upon each application with respect to the standards set forth below. The City Council after receiving the report of the Site Plan

and Appearance Review Committee, may refer the application back to the Site Plan and Appearance Review Committee for additional review, or, by motion, may approve, approve with conditions, or disapprove, an application for a permit for a Type II restaurant, upon findings of fact with respect to each of the standards set forth below:

- a. The proposed sidewalk cafe will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of other sidewalk cafes in the immediate neighborhood.
- b. The proposed sidewalk cafe will not cause undue pedestrian or vehicular traffic congestion.
- c. The sidewalk cafe will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
- d. The proposed sidewalk cafe will comply with all the rules and regulations contained herein, except that the City Council may modify or waive the requirements in paragraph 5c above, relative to non-disposable beverage service containers.
- e. The proposed sidewalk cafe is not likely to have an adverse effect upon the public health, welfare, or safety.

B. Notwithstanding an affirmative finding on any or all of the standards in Section 7-2-6 (D)(6)(A), the City Council may deny a permit for a sidewalk cafe for a Type II restaurant upon a finding that such denial is in the public interest.

7. **Revocation and Suspension:** The City Manager may revoke or suspend a permit for any sidewalk cafe at any time upon a determination that the requirements applicable thereto are not met. Unless the public health, welfare, or safety require more immediate action, revocation and suspension are effective 48 (forty-eight) hours after written notice is delivered to the restaurant. No hearing is provided. A licensed restaurant operator whose sidewalk cafe permit is revoked is not eligible to reapply for a permit during the calendar year of revocation. The City Manager may impose conditions on reinstatement of a suspended permit or upon the grant of a permit to a licensed restaurant operator whose sidewalk cafe permit had been revoked within the previous two calendar years.
8. **Legal Effect:** In the event of a conflict between the regulations in the Zoning Ordinance and the regulations contained herein, the regulations in this Chapter shall be controlling with respect to sidewalk cafes.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced April 22, 1996

Adopted: May 6, 1996

Approved: May 8, 1996  
Lorraine H. Norton  
Mayor

ATTEST:

Justin Davis  
City Clerk

Approved as to form:

[Signature]  
Corporation Counsel

