

57-O-01

AN ORDINANCE

**Amending Sections 7-2-6(D)(2), 7-2-6(D) 5, and
7-2-6(D)(6) to Permit Sales of Alcoholic Liquor
at the Sidewalk Cafes of Certain Type 1
Restaurants Outside the Core Area and
Requiring Valet Parking for Said Restaurants**

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

SECTION 1: That Section 7-2-6(D)(2) of the Evanston City Code of 1979, as amended, be and hereby is, further amended, to read as follows:

2. Permits:

- a. Type I Restaurants (Not Selling Alcoholic Liquor on the Sidewalk Café Premises), Bakeries, Or Ice Cream Stores More Than Two Hundred Feet From A Residentially-Zoned District:

Permits to rent sidewalk space for a sidewalk cafe shall only be granted to the licensed operator of restaurants, bakeries, or ice cream stores, as defined in subsection (D)1 of this Section when these uses are more than two hundred feet (200') from a residentially zoned district. Sidewalk cafes are not permitted at restaurants, bakeries or ice cream stores or other licensed food service establishments or other licensed retail food stores located in a residential district. The City Council may authorize sidewalk cafes appurtenant to a type II restaurant, and appurtenant to any restaurant, bakery, ice cream store or other licensed food service establishment or other licensed retail food store which is within two hundred feet (200') of a residentially zoned district and is not itself within a residential district subject to the procedures, standards, and regulations contained within subsection (D)2b and (D)6 of this Section. The two hundred feet (200') shall be measured from the lot line of the parcel devoted to said sidewalk cafe to the residential zoning district boundary, inclusive of right of way.

- b. Type II Restaurants, Other Licensed Food Service Establishments Or Other Licensed Retail Food Stores, And Any Licensed Food Service Establishment Or Licensed Retail Food Store Within Two Hundred Feet Of A Residentially Zoned District

Or Type 1 Restaurant with an Alcoholic Liquor License Outside the Core Area and Desirous of Selling Alcoholic Liquor on the Sidewalk Café Premises:

Sidewalk cafe permits for type II restaurants, other licensed food service establishments or other licensed retail food stores, and any licensed food service establishment or licensed retail food store within two hundred feet (200') from a residentially-zoned district, or type 1 restaurants with an alcoholic liquor license outside the "Core Area" as defined in Section 3-5-1 of this Code and desirous of selling alcoholic liquor on the sidewalk café premises as defined in subsection (D)1 of this Section, 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, other licensed food service establishments or other licensed retail food stores, or type 1 restaurant with a liquor license outside of the "core area" desirous of selling alcoholic liquor on the sidewalk café premises and any licensed food service establishment or licensed retail food store within two hundred feet (200') of a residentially zoned district 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. Further, no less than ten (10) business days prior to review and consideration by the City Council, any type II restaurants, other licensed food service establishments or other licensed retail food stores, and any licensed food service establishment or licensed retail food store within two hundred feet (200') from a residentially zoned district, or type 1 restaurant with an alcoholic liquor license outside the "Core Area" desirous of selling alcoholic liquor on the sidewalk café premises must give notice of the review and consideration by the City Council by making a good faith effort to distribute flyers containing notice of the review and consideration by the City Council to all households, residents, and land users within two hundred fifty feet (250') of the subject property and must post a sign notifying of same on the premises appurtenant to the sidewalk café. The posted notice and the flyer notice minimally shall contain the name and telephone number of the business for which the applicant is applying for the sidewalk cafe permit, the location of the subject property, the matter under consideration, and the date, time, and location of the review and consideration by the City Council and by the Planning and Development Committee of the City Council.

c. Permit Required: No licensed operator of a restaurant, bakery, ice cream store, or other licensed food service establishment or other licensed retail food store shall erect, place or maintain in or upon any public sidewalk or parking contiguous or adjacent to said licensed restaurant, bakery, ice cream store, or other licensed food service establishment or other licensed retail food store, 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 shall have been

first obtained from the City Manager in the instance of a type I restaurant, bakery or ice cream store, when the use is more than two hundred feet (200') from a residentially zoned district, or with approval of City Council in the instance of a type II restaurant, other licensed food service establishment or other licensed retail food store, or any licensed food service establishment or licensed retail food store within two hundred feet (200') of a residentially zoned district or type 1 restaurant with an alcoholic liquor license outside the "Core Area" desirous of selling alcoholic liquor on the sidewalk café premises.

d. Term Of Permit: A licensed restaurant, bakery or ice cream store operator or other licensed food service establishment or other licensed retail food 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.

e. Exception For Existing Sidewalk Cafes Appurtenant To Type 1 Restaurants: The requirements, procedures and standards contained herein notwithstanding, the City Manager may issue a sidewalk cafe permit to any licensed operator of a type 1 restaurant which is within two hundred feet (200') of a residentially zoned district as if said type 1 restaurant were more than two hundred feet (200') from a residentially-zoned district if the City had issued a sidewalk cafe permit for said type 1 restaurant in the immediately prior year and if that sidewalk cafe permit was not revoked or suspended. Provided, however, that a type 1 restaurant desirous of selling alcoholic liquor on the sidewalk café premises must follow the procedure set forth in section 7-2-6(D)(2).

SECTION 2: That Section 7-2-6(D)5 is amended, to read as follows:

Section 7-2-6(D)5. Rules And Regulations For All Sidewalk Cafes:

a. (i) Licensed type I restaurants, possessing an alcoholic liquor license of any classification and located within the "Core Area" as defined in Section 3-5-1 of this 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.

(ii) Licensed restaurants, possessing an alcoholic liquor license of any classification, but located outside the "Core Area" as defined in Section 3-5-1 of this Code, unless otherwise permitted in §7-2-6(D)5a(iii), 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, unless otherwise permitted in §7-2-6(D)5a(iii), 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.

(iii) Licensed type 1 restaurants, possessing an alcoholic beverage license of any classification, but located outside the "Core Area", may request a sidewalk café permit which allows the sale of alcoholic liquor on sidewalk café premises subject to the standards and procedures of §7-2-6(D)6 and in compliance with all other applicable provisions of this Code.

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 single use 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 prohibition on the use of single-use dishes, utensils, beverage containers or foil, paper, plastic or plastic wrapping or packaging may be waived by the City Council upon a showing of good cause. Such good cause includes, but is not limited to, provision of table bus service, a litter control and disposal plan, or equivalents, sufficient to obviate any adverse off-site effects of the grant of the waiver.

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, bakeries, ice cream stores or any other licensed food service establishment or other licensed retail food store, a sidewalk cafe shall provide bus service during all hours of operation.

e. The operator of any licensed food service establishment or licensed retail food store 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. Alcohol will only be served at sidewalk cafés in conjunction with a full meal. The sidewalk café shall not function as a “bar”, as that term is defined in Section 3-5-1 of the City’s Liquor Control Regulations.

k. Alcohol will not be served at sidewalk cafés after 9:30 p.m. on weekdays and after 10:30 p.m. on weekends.

l. Any violation of the City’s Liquor Control Regulations at the sidewalk café premises subjects the licensee to revocation of the liquor license for the entire licensed premises in accordance with the provisions of Title 3, Chapter 5 of the City Code.

m. Revocation or suspension of a sidewalk café permit by the City Manager pursuant to Section 7-2-6 (D) (7) prohibits service of alcoholic liquor on the sidewalk café premises for the duration of the revocation or suspension.

SECTION 3: That Section 7-2-6(D)(6) is hereby amended to read as follows:

6. Standards and Procedures For Approval Of A Permit For A Sidewalk Cafe For A Type II Restaurant, Other Licensed Food Service Establishment, Other Licensed Retail Food Store, Type 1 Restaurant Within Two Hundred Feet Of A Residentially-Zoned District, Or a Type 1 Restaurant with an Alcoholic Liquor License Outside the Core Area and Desirous of Selling Alcoholic Liquor on the Sidewalk Café Premises:

The Site Plan and Appearance Review Committee will review all applications for sidewalk cafes for type II restaurants, or other licensed food service establishments or other licensed retail food stores, or any licensed food service establishment or licensed retail food store which is within two hundred feet (200’) of a residentially-zoned district, or type 1 restaurant with a liquor license outside of the “Core Area” and desirous of selling alcoholic liquor on the sidewalk café premises 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 that body for additional review, or, by motion, may approve, approve with conditions, or disapprove, an application for a permit for a type II restaurant, or other licensed food service

establishment or other licensed retail food store, or any licensed food service establishment or licensed retail food store which is within two hundred feet (200') of a residentially-zoned district, or type 1 restaurant with a liquor license outside of the "Core Area" and Desirous of Selling Alcoholic Liquor on the Sidewalk Café Premises, 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 subsection (D)5c of this Section. Sidewalk cafés serving alcoholic liquor must comply with the City's Liquor Control Regulations.
- e. For sidewalk cafés licensed in the previous year, any failure to comply with the provisions of Section 7-2-6 (D) or with the City's Liquor Control Regulations during that year are not likely to have an adverse effect upon the public health, welfare, or safety in the year for which permission is sought to serve alcoholic liquor at the sidewalk café.
- f. The proposed sidewalk cafe is not likely to have an adverse effect upon the public health, welfare, or safety.
- g. For Type 1 Restaurants outside the Core Area not located within one block of a parking lot with spaces available during hours of operation of the sidewalk café in numbers to accommodate one vehicle for each table in the sidewalk café, the applicant seeking permission to sell alcoholic beverages at a sidewalk café must provide and maintain valet parking service utilizing a dedicated off-street parking facility. Each such restaurant must actively encourage its customers to park in the garage, not on the street.

Notwithstanding an affirmative finding on any or all of the standards in subsection (D)6 of this Section, the City Council may deny a permit for a sidewalk cafe for a type II restaurant, or other licensed food service establishment or other licensed retail food store, or any licensed food service establishment or licensed retail food store which is within two hundred feet (200') of a residentially zoned district, or may deny

permission to sell alcoholic beverages on the sidewalk café premises of a Type 1 restaurant with an alcoholic liquor license outside of the "Core Area" upon a finding that such denial is in the public interest.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: That this ordinance shall be in full force and effect upon passage and approval.

Introduced: May 21, 2001

Adopted: June 11, 2001

Approved: June 18, 2001

Lorraine H. Norton
Mayor

ATTEST:

Mary P. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

