

3/21/2006

**50-0-06**

**AN ORDINANCE**

**Amending section 7-2-6(D)  
of the Evanston City Code, 1979, as Amended,  
Pertaining to "Sidewalk Cafés"**

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

**SECTION 1:** That Section 7-2-6(D) of the Evanston City Code  
pertaining to Sidewalk Cafés is hereby amended to read as follows:

**7-2-6: OCCUPATION OF PUBLIC WAYS FOR BUSINESS PURPOSES;  
PERMITS:**

**(D) Sidewalk Cafés:**

**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 at wholesale.

**ICE CREAM STORE:** An establishment selling primarily ice cream, soda water, frozen yogurt and soft drinks.

**OTHER LICENSED FOOD SERVICE ESTABLISHMENT OR OTHER LICENSED RETAIL FOOD STORE:** An establishment licensed by the City of Evanston as a food service establishment or as a retail food store, under Title 8 of this Code, which is not a "bakery", an "ice cream store", a "Restaurant Type 1", or a "Restaurant Type 2", as defined within this Section.

**RESTAURANT 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" as defined in this Section. 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 include 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. **Type 1 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 café 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 cafés 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 cafés appurtenant to a Type 2 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 subsections (D)2(b) 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 café to the residential zoning district boundary, inclusive of right-of-way.

b. **Type 2 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 café permits for Type 2 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 cafés for Type 2 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 2 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 flyered notice minimally shall contain the name and telephone number of the business for which the applicant is applying for the sidewalk café 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 1 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 2 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 café permit. The sidewalk café 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: Renewal:** If a sidewalk café permit has been issued for the prior calendar year, the approval for a sidewalk café permit shall be obtained from the City Manager, provided, the sidewalk café permit previously issued has not been revoked or suspended, and the sidewalk café has received no inspection citation(s) from Property Standards or the Health Department for said prior calendar year. The renewal application must satisfy the requirements set forth in Section 3 herein.

**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 sidewalk café.

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 café operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, parking meters, streetlights, traffic signals, street signs, bus shelters, trees, tree grates, planting boxes and/or planting areas, and any other public or private obstruction. A plat of survey may be required.

c. A statement of use as Type 1 or Type 2 restaurant, ice cream store, bakery, or other licensed food service establishment or other licensed retail food store of the principal use.

d. A menu of the proposed service. Any restaurant which is prohibited by this subsection (D) from serving alcoholic beverages must provide evidence that the menu will so indicate.

e. A hold harmless statement in a form so 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 five hundred thousand

dollars (\$500,000.00) 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 and liquor license (if applicable) issued by the City.

h. An acknowledgment that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafés.

i. An annual permit fee in the amount of two hundred dollars (\$200.00) plus one dollar (\$1.00) per square foot of the public right-of-way to be occupied. In instances in which any licensed food service establishment or licensed retail food store has used the public right-of-way for a sidewalk café without the benefit of a permit issued by the City for such usage, the sidewalk café annual permit fee shall be increased by an additional two hundred dollars (\$200.00) plus one dollar (\$1.00) per square foot of the public right-of-way to be occupied.

**4. Unobstructed passage:** At all times the operator of any licensed food service establishment or licensed retail food store must:

a. Maintain a clear distance of a minimum of six (6) 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 café 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 in a location that interferes with the operation of fire hydrants, pedestrian crosswalks, intersections, bus stops, or taxi stands, or in a location that is harmful to trees or other plantings.

d. Not utilize any of the required or nonrequired parking space area for sidewalk tables, benches, chairs, or other furniture and materials associated with the sidewalk café.

**5. Rules and regulations for all sidewalk cafés:**

a. (1) Licensed Type 1 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 café 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 café menus.

(2) 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 subsection (D)(5)(a)(3) of this Section, and all Type 2 restaurants, are prohibited from serving alcoholic liquor on the sidewalk café premises or allowing any patron to consume or have in his or her possession, any alcoholic liquor on said café premises. Licensed restaurants outside the core area which serve alcoholic liquor in the principal establishment, unless otherwise permitted in subsection (D)(5)(a)(3) of this section, and Type 2 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.

(3) 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 subsection (D)(6) of this Section 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 cafés. 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, provisions 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 1 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 2 restaurants, bakeries, ice cream stores or any other licensed food service establishment or other licensed retail food store, a sidewalk café 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 café 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 may be stored on the City sidewalk, in an area approved by the City, upon the payment of a two hundred dollar (\$200.00) fee.

h. A sidewalk café shall not be open for business when the interior aspect of the business is not open for business.

i. The outdoor seating area shall be accessible to the disabled, and the licensee shall at all times comply with all applicable federal, state, and City laws, ordinances, and regulations concerning accessibility and non-discrimination in the providing of services.

j. No animals, except those assisting the disabled, shall be allowed in the outdoor restaurant seating area.

k. Alcohol will only be served at sidewalk café 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.

l. Alcohol will not be served at sidewalk cafés after nine thirty o'clock (9:30) P.M. on weekdays and after ten thirty o'clock (10:30) P.M. on weekends.

m. 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 this Code.

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

**6. Standards and procedures for approval of a permit for a sidewalk café for a Type 2 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 cafés for Type 2 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 2 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 café will not cause a negative cumulative effect when its effect is considered in conjunction with the cumulative effect of other sidewalk cafés in the immediate neighborhood.

b. The proposed sidewalk café will not cause undue pedestrian or vehicular traffic congestion.

c. The sidewalk café will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.

d. The proposed sidewalk café will comply with all the rules and regulations contained herein, except that the City Council may modify, or waive the requirements in subsection (D)(5)(c) 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 this subsection (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 café 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 (1) 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 this subsection (D)(6), the City Council may deny a permit for a sidewalk café for a Type 2 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.

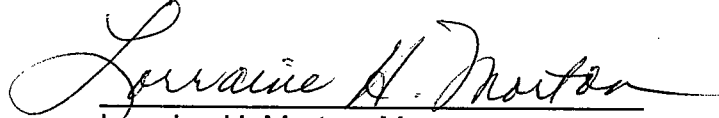
**7. Revocation and suspension:** The City Manager may revoke or suspend a permit for any sidewalk café at any time upon a determination that the requirements applicable thereto are not met. Unless the public health, welfare, or safety require more immediate action, revocation and suspension are effective forty-eight (48) hours after written notice is delivered to the restaurant; bakery, ice cream store or other licensed food service establishment or other licensed retail food store. No hearing is provided. A licensed restaurant, bakery, ice cream store or other licensed food establishment or other licensed retail food store operator whose sidewalk café 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 food service establishment or retail food store operator whose sidewalk café permit has been revoked within the previous two (2) calendar years.

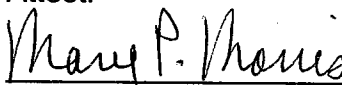
**8. Legal effect:** In the event of a conflict between the regulations in the Zoning Ordinance and the regulations contained herein, the regulations in this Chapter shall be controlling with respect to sidewalk cafés.

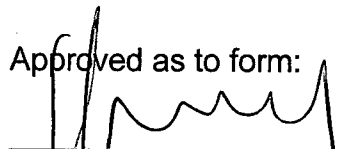
**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

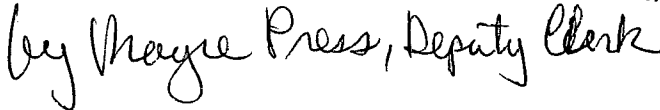
**SECTION 3:** That this ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Introduced: March 27, 2006      Approved:  
Adopted: March 27, 2006      March 28, 2006

  
\_\_\_\_\_  
Lorraine H. Morton, Mayor

Attest:  
  
\_\_\_\_\_  
Mary P. Morris, City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Corporation Counsel

  
by Mayra Press, Deputy Clerk