

74-O-21

AN ORDINANCE

Amending the City Code to Allow Dogs at Outdoor Restaurant Patios

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

SECTION 1: City Code Section 7-2-6 “Occupation of Public Ways for Business Purposes; Permits” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

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

(D) Sidewalk Cafes.

1. Definitions.

BAKERY.	An establishment for any process of mixing, compounding and baking any bread, biscuits, crackers, rolls, cakes, pies, or any food products of which flour or meal is a principal ingredient, for sale at retail or at wholesale.
ENOTECA.	A wine shop classified as a retail goods establishment holding a valid City of Evanston Class K liquor license.
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	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

FOOD STORE.	"ice cream store," a "restaurant Type 1," or a "restaurant Type 2," as defined in 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 2.	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 Cafe Premises), Bakeries, or Ice Cream Stores More than Two Hundred (200) 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 Section 7-2-6(D)(1) when these uses are more than two hundred (200) feet 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 Design and Project Review Committee may authorize sidewalk cafes 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 (200) feet of a residentially zoned district and is not itself within a residential district subject to the procedures, standards, and regulations contained within Section 7-2-6(D)(6). The two hundred (200)

feet 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 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 (200) Feet of a Residentially Zoned District or Type 1 Restaurant With an Alcoholic Liquor License Outside the "core area" as defined in Section 3-4-1 of this Code and Desirous of Selling Alcoholic Liquor on the Sidewalk Cafe Premises. Sidewalk cafe 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 (200) feet from a residentially zoned district shall require approval of the Design and Project Review Committee. Type 1 restaurants with an alcoholic liquor license outside the core area and desirous of selling alcoholic liquor on the sidewalk cafe premises as defined in Section 7-2-6(D)(1), shall require the approval of the City Council.

c. Enoteca and Class K Liquor Licensees. An Enoteca or Class K liquor licensee requesting a sidewalk cafe permit requires approval by the Design and Project Review Committee with respect to the standards set forth in Section 7-2-6-(D)(6). An Enoteca or Class K liquor licensee seeking to sell wine on the sidewalk at the premises shall require the approval of the City Council.

d. 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 in the instance of a Type 1 restaurant, bakery or ice cream store, when the use is more than two hundred (200) feet from a residentially zoned district, Enoteca/Class K liquor licensee, 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 (200) feet of a residentially zoned district.

e. 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 or Enoteca operator or Class K liquor licensee 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. No licensed operator shall assign or transfer a sidewalk cafe permit.

f. Exception; Renewal. If a sidewalk cafe permit was issued for the prior calendar year, the approval for a sidewalk cafe permit shall be obtained from the City Manager or his/her designee, provided, the sidewalk cafe permit previously issued was not revoked

or suspended, and the sidewalk cafe received no inspection citation(s) from property standards or the Health Department for said prior calendar year. The application must satisfy the requirements set forth in Section 7-2-6(D)(3).

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/her designee:

a. Name and mailing address of the applicant and of the proposed sidewalk 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 the existing public improvements including the following: fire hydrants, parking meters or parking pay boxes, streetlights, utility structures, traffic signals, street signs, bus shelters, trees, tree grates, planting boxes and/or planting areas, landscaping, and any other public or private obstruction. A plat of survey is 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 or Enoteca or Class K liquor license.

d. An indemnification and hold harmless statement in a form approved by the City.

e. 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. The certificate of insurance shall be subject to final approval by the City and the applicant shall make whatever amendments to said certificate if requested to do so by the City.

f. A copy of a valid business license and liquor license (if applicable) issued by the City.

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

h. Annual permit fee in the amount of three hundred dollars (\$300.00) for Type 1 restaurants and Type 2 restaurants or two hundred fifty dollars (\$250.00) for all other businesses. A three-dollar (\$3.00) per square foot of the public right-of-way to be occupied shall be paid by Type 1 restaurants and Type 2 restaurants or two-dollar (\$2.00) per square foot of the public right-of-way to be occupied shall be paid by all

other businesses. In instances in which any licensed food service establishment or licensed retail food store has used the public right-of-way for a sidewalk cafe without the benefit of a permit issued by the City for such usage, the sidewalk cafe 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 shall:

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 cafe area as indicated on the approved permit. If the sidewalk cafe has permanent infrastructure, the permittee must maintain a clear distance of eight (8) unobstructed feet in width. Clearance should provide for a lineal path for pedestrian travel. Cafe area shall be two (2) feet minimally from inside of street curb and shall not encroach into streetscape paver band.

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 cafe.

5. Rules and Regulations for All Sidewalk Cafes.

a. A Type 1 restaurant with an alcoholic liquor license outside the "core area", Enoteca/Class K liquor licensee desirous of selling alcoholic liquor on the sidewalk cafe premises must first obtain an alcohol license from the City Council.

(1) Licensed Type 1 restaurants, possessing an alcoholic liquor license of any classification and located within the core area, may sell alcoholic liquor on sidewalk cafe premises. Such sale of alcoholic liquor shall be for consumption on the premises only during the period when their patrons are offered a complete meal.

(2) Licensed restaurants, possessing an alcoholic liquor license of any classification, but located outside the "core area" as defined in Section 3-4-1 of this Code, unless otherwise permitted in Section 7-2-6(D)(5)(a)(3), 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 Section 7-2-6(D)(5)(a)(3) which serve alcoholic liquor in the

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

(3) Type 2 restaurants are, generally, prohibited from serving alcohol and must clearly state on the menu for outdoor service that the sale and/or consumption of alcoholic liquor is prohibited. However, Type 2 restaurants which serve alcoholic liquor in the principal establishment, may serve alcohol on their sidewalk cafe only if the restaurant complies with the requirements of a Type 1 restaurant in Section 7-2-6(D) on the restaurant's sidewalk cafe. All alcoholic beverages must be served in reusable glassware.

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

(5) An Enoteca possessing a Class K liquor license sell wine within the boundaries of the sidewalk cafe premises.

(6) A Class K liquor licensee may sell beer, wine, or liquor within the boundaries of the sidewalk cafe premises.

(7) Alcohol is not permitted on the sidewalk cafe of a restaurant that does not possess a City of Evanston liquor license.

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 Design & Project Review Committee or 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 cafe shall provide bus service during all hours of operation. When

associated with Enotecas or Class K liquor licensees, food or beverages consumed at sidewalk tables, benches, or chairs must be served by a waiter or waitress of the Enoteca or Class K liquor licensees at said tables, benches, or chairs.

e. The operator of any licensed food service establishment or licensed retail food store or Enoteca or Class K liquor licensees 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. Generally, Sidewalk tables, benches, or chairs may not be attached by any means to the public sidewalk or any other public property. If a restaurant has a right-of-way space that is rectangular and is larger than six hundred (600) square feet, the restaurant can apply to install permanent infrastructure for its sidewalk cafe.

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 three hundred dollar (\$300.00) fee for Type 2 restaurants or a two hundred fifty (\$250.00) for all other types of businesses.

h. A sidewalk cafe 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 nondiscrimination in the providing of services.

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

(1) Notwithstanding anything to the contrary herein, a food establishment with an outdoor restaurant seating area may allow dogs to be present in the outdoor patio of the food establishment if the food establishment obtains from the Health and Human Services Department a variance waiving the prohibition against allowing a dog on the premises of the food establishment and complies with Health and Human Services Department conditions and standards.

k. Except for an Enoteca business or Class K liquor license establishment, alcohol will only be served at sidewalk cafes in conjunction with a full meal. The sidewalk cafe shall not function as a "bar," as that term is defined in Section 3-4-1, the City's liquor control regulations, of this Code.

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

- m. Any violation of the City's liquor control regulations at the sidewalk cafe premises may result in the 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 cafe permit by the City Manager or his/her designee pursuant to Section 7-2-6(D)(7) prohibits service of alcoholic liquor on the sidewalk cafe premises for the duration of the revocation or suspension.
- o. No amplified music, whether live or recorded, is allowed on sidewalk cafe premises.
- p. The sidewalk cafe permit and approved plan shall be conspicuously displayed 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 Sidewalk Cafe, including the physical boundary separating the permitted outdoor seating from the remainder of the public way, shall reflect the approved plan and shall not be modified or altered unless approved by the Design and Project Review Committee or City Council.
- r. If a boundary is installed enclosing the permitted area from the remainder of the public way, the boundary shall be no less than twenty-four (24) inches or more than thirty-six (36) in height and shall include cane detectable barriers located twenty-seven (27) inches or less above ground.
- s. Non-permissible enclosure of City property within the boundaries of the sidewalk cafe shall include, but not limited to parking meters/boxes, fire hydrants, newspaper stands/boxes, trees, planters and bike racks. These types of items must be accessible to the public or to the City for emergency services.
- t. No portion of the sidewalk cafe shall expand to include neighboring businesses, residences or empty lots. No portion of the sidewalk cafe shall be elevated. Sidewalk cafes cannot operate under scaffolding or construction canopies.
- u. Permittees are required to be current with payment of all taxes and any fee/payment due the City of Evanston. Permit shall be automatically revoked sixty (60) days after notice on non-payment and equipment shall be removed from cafe area.
- v. Smoking of any type is prohibited on sidewalk cafes. Permittees are responsible for the conduct of patrons of their sidewalk cafe. Failure to enforce the City's prohibition against smoking can result in revocation of the sidewalk cafe permit or a fine.

SECTION 2: City Code Section 9-4-7 "Restraint of Animals Required" of the Evanston City Code of 2012, as amended, is hereby amended as follows:

9-4-7. - RESTRAINT OF ANIMALS REQUIRED.

(A) All animals except cats shall be kept under restraint.

(B) It shall be unlawful for any animal, even though on leash, to be or enter upon any public hall, restaurant, confectionery shop, coffee shop, ice cream or soft drink establishment, office, store, grocery, meat market, bakery or any store or shop for the sale of food, except any shop for the sale of animal pets, anywhere within the City during the time that any of such places or establishments are open for use by the public or persons entitled to use the same. This Section shall not apply to food establishments that comply with the requirements of Section 7-2-6(D)(5)(j)(1) of the Code.

(C) It shall be unlawful for any dog or cat, even though on leash, to go or be upon any school premises or public bathing beach within the City or upon a path or sidewalk extending through or within any school premises or public bathing beach within the City. The foregoing shall not apply to any City-designated dog beach, as described in Section 7-11-8 of this Code, as amended.

(D) It shall be unlawful for any dog or cat, unless on leash, to go or be upon any public playground or public park within the City or upon a path or sidewalk through or within any public park or playground within the City.

(E) The provisions of this Section shall not apply to working service animals.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Introduced: June 16, 2021
Adopted: July 26, 2021

Approved:
8/17, 2021

Daniel Biss

Daniel Biss, Mayor

Attest:

Stephanie Mendoza

Stephanie Mendoza, City Clerk

Approved as to form:

Nicholas E. Cummings

Nicholas E. Cummings, Corporation
Counsel