



Gerald D. Jennings
Mayor

Office of the City Clerk
City Hall - Room 202
Albany, New York 12207
Phone (518) 434-5090 Fax (518) 434-5081

John C. Marsolais
City Clerk

CAFÉ LICENSE APPLICATION

INSTRUCTIONS: This application must be completed in full, either typed or printed clearly, and submitted to the City Clerk, City Hall, Room 202, by the owner or tenant of the property for which the café license is being requested.

This form must be accompanied with a site plan, drawn to scale, which clearly indicates the proposed café in relation to existing buildings, adjoining streets and sidewalks, and must identify any other significant features of the site. A \$65.00 non-refundable processing fee due with application. A certificate of insurance naming the City of Albany, as an additional insured must be submitted prior to the issuance of a permit. Incomplete applications will not be accepted.

If you have any questions about the application process, please contact the Office of the City Clerk at (518) 434-5090.

APPLICANT

Name of Proprietor: _____

Name of Establishment: _____

Telephone Number: _____ E-Mail: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Applicant's Interest in Property: Owner Tenant Other

PROPERTY

Owner: _____

Owner's Name: _____

Location of café (sidewalk, backyard, roof): _____

Total amount of City property needed for café: Width _____ Length _____

Total square footage including City property: Width _____ Length _____

Total No. of tables now in establishment: _____ No. of café tables proposed: _____

Is the number of tables at your establishment increasing as a result of the café? _____

Will alcoholic beverages be served in the café? _____

Will there be any exterior lighting or music? _____

Proposed hours and days of operation:

Hours: _____ Days of the week: _____

Daily hours : _____

(Cafés located in a C-1 residential district cannot open before 8a.m. and cannot stay open past 11p.m.)

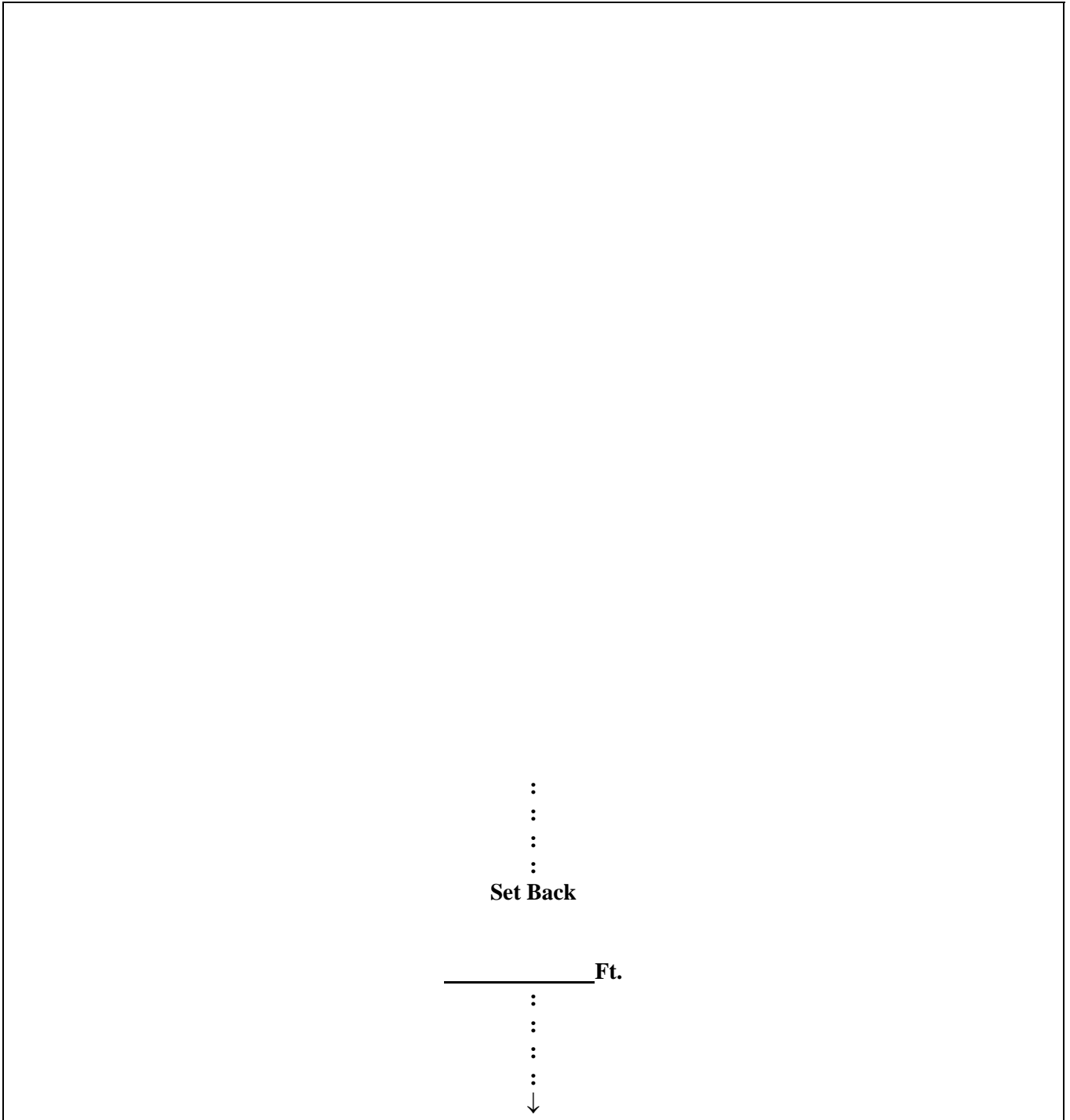
I, the undersigned, hereby attest to the accuracy of the information submitted herein, and in the event that this application is approved, agree to carry the required insurance for and assume all liability regarding those exterior areas which are involved in the proposed use. I also agree to abide by any and all conditions of the permit and fully understand my obligations pursuant to Chapter 303- sidewalks and café.

Applicant's Signature: _____ Date: _____

DO NOT WRITE BELOW THIS LINE

Status and conditions:

PLEASE INDICATE IF CAFÉ IS IN REAR OF PROPERTY



:
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:
:
Set Back

_____ **Ft.**

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STREET

**PLEASE INDICATE WHERE CAFÉ TABLES ARE POSTIONED AND
SQUARE FOOTAGE OF CAFÉ**

Chapter 303: SIDEWALK AND OUTDOOR CAFES

[HISTORY: Adopted by the Common Council of the City of Albany 1-24-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 133.
Penalties — See Ch. 258.
Streets and sidewalks — See Ch. 323.
Zoning — See Ch. 375.

§ 303-1. Purpose and intent.

The sidewalk and outdoor cafe regulations as set forth in this chapter are designed to permit those cafes in areas where they are appropriate and to promote and protect the public health, safety and general welfare. Specific purposes of this legislation are:

- A. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk and outdoor cafes.
- B. To preserve and enhance the character of neighborhoods through the City and to protect the adjacent residential areas.
- C. To simplify administrative and strengthen enforcement procedures for sidewalk and outdoor cafes that are effective, efficient and enforceable.
- D. To promote the most desirable use of land and to provide compensation to the City for use of City-owned land for sidewalk cafe purposes.

§ 303-2. Title.

This chapter shall be known as the "Sidewalk and Outdoor Cafe Ordinance."

§ 303-3. Definitions.

For the purposes of this chapter, the following terms shall include each of the meanings set forth:

NONRESIDENTIAL DISTRICTS — Those areas of the City of Albany designated by the Zoning Map, § 375-5, Article II, of Chapter 375, Zoning, as C-2, C-3, C-PB, C-M, M-1 and NBC/O.

OUTDOOR CAFE — Those exterior facilities adjacent to and a part of establishments selling food and/or drink, entirely located on private property, open to the elements except for awnings and/or low walls or fences, temporary or permanent in nature, such as rooftop cafes and those at street level not using any City-owned property.

PERMIT — Written authorization issued by the City Clerk pursuant to this chapter permitting the operation of either a sidewalk or outdoor cafe.

RESIDENTIAL/MIXED-USE DISTRICTS — Those areas of the City of Albany designated by the Zoning Map, § 375-5, Article II, of Chapter 375, Zoning, as R-1, R-2, R-3, R-3(H), R-4, R-O, C-O, C-O(M), C-R, C-1, NBR/NC. *Editor's Note: Pursuant to the latest revision of the City's Zoning Law, the R-3(H), C-O(M), C-R and NBR/NC District designations are no longer used in zoning. See Ch. 375, Zoning.*

SIDEWALK CAFE — Those exterior facilities adjacent to and a part of establishments selling food and/or drink that require the use of some City-owned property for operation, are temporary in nature and open to the elements except for optional awnings and/or temporary low walls or fences.

§ 303-4. Permit required; restrictions.

- A. No sidewalk or outdoor cafe shall be allowed to operate in any outdoor area unless a permit has been obtained from the City Clerk.

- B. Any request for the use of such an area for such purpose shall be made in writing to the City Clerk, in the form of a permit application.

§ 303-5. Rules and regulations.

The City Clerk shall establish rules and regulations necessary to carry out the purposes of this chapter.

§ 303-6. Application for permit.

- A. Any request or application for a permit to operate a sidewalk or outdoor cafe shall be made to the City Clerk or his or her designated agent, in writing, on the application form provided by the City Clerk's office for this purpose. Where construction or alterations are anticipated, the applicant for an outdoor cafe must also submit a building permit application which will be reviewed for compliance with the State Building Code and City Zoning Requirements. *Editor's Note: See the New York State Uniform Fire Prevention and Building Code and Ch. 375, Zoning, of this Code, respectively.*
- B. The request/application shall include:
- (1) The name, address and telephone number of the applicant.
 - (2) The name, address and telephone number of the restaurant to be the subject of the application.
 - (3) The days and hours for which the permit is requested.
 - (4) Whether alcoholic beverages are to be served.
 - (5) The number of tables and chairs desired for this area and a rendering of positions of tables relative to entrances, exits and the sidewalk.
 - (6) A description of facilities and equipment to be used, including whether live or mechanically reproduced music is to be played and the other devices needed for amplification of sound, when applicable.
 - (7) A site plan, drawn to scale, showing proper clearance around ingress and egress to building and to fire safeguards; also proper amount of clearance on sidewalk for pedestrian traffic.
 - (8) Proof of insurance, in amounts required by the City Clerk.
 - (9) An indication of all fixtures such as fencing, decking or planters to be used and an indication of whether or not they will be removed when the cafe is closed.
 - (10) A survey map indicating property lines and that property which is owned by the applicant and that which is City-owned.
 - (11) Any other information that the City Clerk may find reasonably necessary for the fair determination as to whether a permit should be issued.

§ 303-7. Standards for issuance of permit. [Amended 4-24-1997 by Ord. No. 13.32.97]

- A. The City Clerk shall issue a permit upon a finding that:
- (1) The proposed sidewalk or outdoor cafe will not unreasonably interfere with the pedestrian traffic or use of the City-owned portion of property to be used.
 - (2) The applicant has met all other applicable provisions in this chapter and those in the Building Code, the Zoning Ordinance and, if located in a historic district, the Historic Resources Commission Ordinance. *Editor's Note: See Ch. 133, Building Construction; Ch. 375, Zoning; and Ch. 42, Departments and Commissions.*
- B. Notwithstanding the foregoing, the City Clerk may deny a permit upon a finding that:
- (1) The use of the sidewalk or outdoor cafe has resulted in violations of any applicable rule, regulation, ordinance, local law or statute during the 12 months preceding the application.

- (2) The proposed sidewalk or outdoor cafe will have an undue adverse effect upon nearby property, the character of the neighborhood, traffic conditions, parking or other matters affecting the public health, safety, welfare or convenience.

- C. The City Clerk may hold an administrative hearing with the applicant for a permit and any other interested persons to assist in making such a determination. Such hearing shall be upon notice to the Departments of Engineering, Planning and Neighborhood Development, Fire, Police, Traffic Engineering; the Alderperson representing the area in which the proposed cafe is to be located; and the neighborhood association, if any, whose contact person and boundary descriptions are on file with the City Clerk.

§ 303-8. Effect of permit.

A permit holder shall be bound by all applicable rules, regulations, ordinances, local laws and statutes. The permit may be conditioned on modifications or restrictions intended to ensure compliance with the provisions of § 303-7 and the general protection of the health, safety and welfare of the citizenry.

§ 303-9. Fees. [Amended 6-17-1996 by Ord. No. 16.62.96; 5-19-2008 by Ord. No. 25.42.08]

The fee for processing the application for a sidewalk or outdoor cafe permit shall be \$65.

§ 303-10. Liability of permit holder; insurance.

The person or persons to whom a permit is issued shall be liable and shall indemnify the City for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom the permit shall have been issued. The applicant for a permit shall present to the City a certificate of insurance, naming the City of Albany as additional insured, prior to the issuance of the permit, in the amounts specified by the City Clerk. The City Clerk may, in his or her discretion, waive the requirement for insurance when circumstances warrant.

§ 303-11. Revocation of permit and enforcement. [Amended 4-24-1997 by Ord. No. 13.32.97]

- A. The City Clerk, with the assistance of the Albany Police Department and the Department of Planning and Neighborhood Development, shall be responsible for monitoring and enforcing compliance with the terms of this chapter and applicable rules and regulations. In so doing, the City Clerk may hold an administrative hearing with the applicant for a permit and any other interested persons. Such hearing shall be upon notice to the Departments of Engineering, Planning and Neighborhood Development, Fire, Police, Traffic Engineering; the Alderperson representing the area in which the proposed cafe is to be located; and the neighborhood association, if any, whose contact person and boundary descriptions are on file with the City Clerk.
- B. The Albany Police Department, upon inspection and discovery of a violation of this chapter or other applicable rule, regulation, ordinance, local law or statute may immediately cause the offending cafe to be cleared of patrons.
- C. The Albany Police Department or the Department of Planning and Neighborhood Development shall, upon the discovery of a violation of this chapter or other applicable rule, regulation, ordinance, local law or statute, prepare and submit to the City Clerk a report of such violation in such form as agreed upon by the City Clerk and the Chief of Police or his or her designee.
- D. Upon a finding of such violation of this chapter or other applicable rule, regulation, ordinance, local law or statute, or upon other good cause shown, the City Clerk may revoke a permit or commence an action pursuant to § 258-2, or both.

§ 303-12. Appeal from denial, revocation or issuance of permit.

Appeals from the issuance, denial, revocation or other condition of a permit may be taken to the Board of Zoning Appeals, by any aggrieved person, within thirty (30) days from the date of the issuance, denial or revocation, by filing a written notice with the City Clerk on forms prescribed by the Board. Each appeal shall refer to the specific relevant provision of the ordinance, explain the aggrieved person's position with respect to the determination being appealed and state the relief requested. If the appeal is from a denial or revocation, it shall also state the reasons given for said denial or revocation.

§ 303-13. Procedures for City Clerk and Board.

Upon receipt of an appeal of a permit denial, revocation or issuance, the City Clerk shall transmit the appeal and all pertinent data and records to the Board, including his or her recommendations. The Board shall establish a reasonable time for the hearing of each appeal and give proper notice thereof. The Board shall decide the appeal within thirty (30) days of the hearing. At the hearing, any party may appear in person or be represented by an agent or attorney. The Board's decision shall be filed in writing with the City Clerk and Corporation Counsel. A copy shall be sent to the appellant.

§ 303-14. Notification of permit application/issuance; posting.

Upon receipt of a permit application, the City Clerk shall send a copy of the application to the Commissioner of Buildings, City Engineer, Director of Planning and Alderman of the ward in which the proposed sidewalk cafe would be located for their comments. Comments and recommendations shall be accepted for a period of fourteen (14) days from date of distribution. Notice of permit issuance, with any conditions or restrictions attached, will be similarly distributed. The permit holder shall post the permit on the establishment so that it is visible from the street.

§ 303-15. Trash; condition of premises.

Property shall be cleaned and kept refuse-free, and no large containers for trash shall be placed on the cafe premises. At the expiration of the term of the permit, all City-owned property shall be delivered up to the City in good condition, damage by the elements excepted. Public property shall not be altered in any way during the term of the permit.

§ 303-16. Hours of operation.

- A. Residential/mixed-use districts. Cafes located in residential/mixed-use districts shall be open for business not before 8:00 a.m. and shall close by 11:00 p.m.
- B. Nonresidential districts. Cafes located in nonresidential zoning districts shall be open for business not before 8:00 a.m. and shall close by 2:00 a.m.

§ 303-17. Music; lighting; outdoor cooking.

- A. Residential/mixed-use districts. Cafes located in residential/mixed-use districts shall not use music or noise amplification devices, and no music or entertainment of any type is permitted outdoors. Lighting shall be minimal. No outdoor cooking of any type is permitted in sidewalk or outdoor cafes.
- B. Nonresidential districts. Cafes located in nonresidential zoning districts shall be allowed to provide music, so long as it is not of a type or volume as to violate any applicable law or ordinance such as the City's Noise Ordinance *Editor's Note: See Ch. 255, Peace and Good Order, Art. V, Unnecessary and Unusual Noises.* or create a nuisance to surrounding residents or property owners. Lighting shall be minimal. No outdoor cooking of any type is permitted in sidewalk or outdoor cafes.

§ 303-18. Fixtures; furnishings; signage.

In sidewalk cafes, all fixtures and furnishings must be of a temporary nature, capable of being brought in at closing time, and must be brought in and stored during nonoperational hours. No objects, except a retractable awning and lighting fixtures, may be permanently attached to the exterior. All planters, railings and fences must be temporary and not exceed a height of four (4) feet. No additional signage shall be permitted to be affixed to a cafe's temporary structures or accessories. Outdoor cafes, those cafes operated entirely on private property, are excepted from the above requirements of this section; however, if either type of cafe is located in a historic district, additional requirements relative to signage and other exterior elements that are set forth in the Historic Resource Commission Ordinance are applicable. *Editor's Note: See Ch. 42, Departments and Commissions.*

§ 303-19. Clear paths.

For sidewalk cafes using City property for operation, there shall be a minimum of five (5) feet or fifty percent (50%) of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement, such measurement being made from the outermost point of the cafe to the unobstructed inner edge of the curb, excluding brick or grass carpets, United States mailboxes, fire hydrants,

bus shelters, street trees, etc. The actual amount of clearance space needed will be based upon two (2) factors: the location and the volume of pedestrian traffic. A larger pedestrian right-of-way may be required based on the proposed location and the volume of pedestrian traffic experienced there.

§ 303-20. Penalties for offenses. [Amended 4-24-1997 by Ord. No. 13.32.97]

An offense against the provisions of this chapter shall constitute a violation and shall be punishable pursuant to Chapter 258, Penalties.

§ 303-21. Permit issuance, terms, renewals and expirations.

Permits shall be issued on or after May 1 of each year. All permits, regardless of when issued, shall expire on April 30. Applications for renewal of permits shall be made in the same manner as original applications. Permits are not assignable.

§ 303-22. Severability.

If any section, paragraph, subdivision, clause or provision of this chapter shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this chapter shall be deemed valid and effective.