

COUNCIL BILL NO 2024-060

AN ORDINANCE

AMENDING CHAPTER 30, ARTICLE 5, DIVISION 4, SECTIONS 30-540, 30-541, 30-542.1, 30-543, 30-544, 30-549.1, 30-549.2, AND 30-549.3 OF THE CHAMPAIGN MUNICIPAL CODE, 1985
(Streets, Sidewalks, and Public Ways – Specific Temporary Occupancy Permits – Sidewalk Cafes and Retail Space)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHAMPAIGN, ILLINOIS, as follows:

Section 1. That Sections 30-540, 30-541, 30-542.1, 30-543, 30-544, 30-549.1, 30-549.2, 30-549.3 of Article V of the Champaign Municipal Code, 1985 are hereby amended to read as shown in Exhibit 1.

Section 2. That this ordinance shall be effective April 16, 2024.

Section 3. The City Clerk is hereby directed to publish this ordinance so that its effective date is April 16, 2024.

Section 4. If any section, paragraph or provision of this ordinance is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance, or the provision of the Code.

Section 5. The provisions of this ordinance shall take precedence and be interpreted as superseding any other ordinance or statutes in conflict with the provisions of this ordinance.

COUNCIL BILL NO. 2024-060

PASSED: April 16, 2024

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

Sec. 30-540. Definitions.

The following words and phrases shall have the meanings respectively ascribed to them when used in this Article:

- (1) *Food service establishment* shall mean the same as set forth in Section 14-23 of this Code.
- (2) *Liquor establishment* shall mean an establishment licensed by the City of Champaign to sell alcoholic beverages at retail in accordance with the provisions of Chapter 5 of this Code.
- (3) *Sidewalk cafe* shall mean a use of public sidewalk or designated plaza area by a food service establishment or liquor establishment, for the serving of food and beverages. The use will be characterized by the outdoor use of tables, and chairs and umbrellas.
- (4) *Sidewalk retail sales area* shall mean a use of public sidewalk or designated plaza area by a retail establishment for the sale of merchandise. The use will be characterized by the outdoor use of tables, clothing racks and other displays.
- (5) *Plaza Area* shall mean those sidewalks within the Central Business Zoning Districts located as follows:
 - (a) The northeast corner of East Chester and North Walnut Streets.
 - (b) East Taylor Street from North Neil Street to North Walnut Street
 - (c) The south side of Park Avenue between Randolph and State Streets, excluding the area from the west curb of Randolph Street to thirty-five (35) feet west of Randolph Street.
 - (d) Area bounded by Neil Street, Main Street, Washington Street, and the building wall.
 - (e) The first one hundred thirty-two (132) feet of the alley between Church Street and Park Avenue, west of the western Neil Street right-of-way line.
 - (f) Northeast corner of Neil and Chester Streets extending from the back curb to the building property line and extending the entire face of the building at 110-112 North Neil Street.
 - (g) North Market Street from East Chester Street to East Main Street.
- (6) *Permit area* shall mean the sidewalk or plaza area designated on the permit specifying the area of operation of the outdoor sidewalk café or retail area.
- (7) *Permittee* shall mean the person or entity operating a food service or liquor establishment who has received a permit allowing for the operation of an outdoor sidewalk café, or person or entity operating a retail space who has received a permit allowing for the operation of an outdoor retail space.
- (8) *Sidewalk* shall have the same meaning as set forth in Section 1-3 of the Code.

- (9) *Outdoor bar* shall mean a temporary station for the sale and dispensing of alcoholic and non-alcoholic beverages. This object shall not be permanently affixed to the pavement. This object shall be clearly indicated in the permit schematic and shall accommodate adequate queuing areas and service areas.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2014-066, § 1, 4-15-14; C.B. No. 2016-239, § 3, 12-6-16)

Sec. 30-541. Permits Required.

- (a) *Permit Required.* It shall be unlawful for any person to operate a sidewalk cafe or retail sales area on public right-of-way without first obtaining a permit pursuant to this Article.
- (b) *Locations.* The sidewalk outdoor cafe permit shall allow a food service or liquor establishment or a retail business located in the Central Business (CB) Zoning Districts of the City to operate an outdoor sidewalk cafe or a sidewalk retail business, respectively, subject to the requirements of this Chapter. These permits are not to be considered reciprocal, a sidewalk café permit does not permit a sidewalk retail operation, nor vice versa.
- (c) *Trespass; Cover Charge Prohibited.* Subject to the requirements of the Municipal Code, the permit holder shall, as part of the right granted pursuant to the permit, be entitled to remove or exclude persons from the permit area during hours of business operation, and for the purposes of Section 23-62 of the Code (trespass), such permittee is authorized to give notice to any such person to prevent any such person to prevent such entry. No cover charge or minimum purchase may be required for admittance to a sidewalk cafe area in the public right-of-way.
- (d) *Duration.* The initial term of the sidewalk cafe or retail area permit shall begin on the date of issuance and expire on January 31. The term of the permit after the initial term shall begin no earlier than March 1 and end November 30.
- (e) The application, suspension or revocation of any such permit issued pursuant to this article shall be subject to Chapter 19 of this Code.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2014-066, § 2, 4-15-14; C.B. No. 2016-239, § 3, 12-6-16)

Sec. 30-542. Café Application; Fee.

In addition to the requirements of Section 30-502, application for a sidewalk outdoor café permit shall be made on forms supplied by the City, and submitted to the Planning and Development Director, together with the fee set forth in Chapter 19, and shall, at minimum, include the following:

- (1) The name, address, telephone number, and email address of the owner of the property and also the food service establishment related to the permit.
- (2) A copy of a valid permit license from the Health Officer.

- (3) A scaled drawing of the proposed permit area and which shows the location, size and type of the tables, chairs, trash receptacles and other equipment proposed to be used, location of ingress and egress, the curb line and any existing public or utility-owned equipment facilities in or adjacent to the area proposed which are visible to the eye, including but not limited to, parking meters, trees, manhole covers and utility poles or openings.
- (4) An operations plan specifying the proposed dates, days and hours of operation of the sidewalk cafe, the hours of operation of the adjacent restaurant, scheduled maintenance of the permit area, maximum seating capacity, and method of providing security and maintenance.
- (5) Consistent with Section 30-407, an original of a certificate of insurance listing the required coverage amounts and policy periods of the permittee's general liability policies.
- (6) Any other information related to the requirements of this chapter that the Planning Director may require.
- (7) If the proposed sidewalk cafe extends on to sidewalk areas abutting a property owned by someone other than the applicant, as provided in subsection (a) of Section 30-544 of this Chapter, the application shall include a written consent to said extension that includes the signature of the other owner.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2014-066, § 3, 4-15-14; C.B. No. 2016-239, § 3, 12-6-16)

Sec. 30-542.1. Retail Area Application; Fee.

In addition to the requirements of Section 30-502, application for a sidewalk retail area permit shall be made on forms supplied by the City, and submitted to the Planning and Development Director, together with the fee set forth in Chapter 19, and shall, at minimum, include the following:

- (1) The name, address, telephone number, and email address of the owner of the property and also the retail establishment related to the permit.
- (2) A scaled drawing of the proposed permit area and which shows the location, size and type of the tables, clothing racks, and other equipment proposed to be used, location of ingress and egress, the curb line and any existing public or utility-owned equipment facilities in or adjacent to the area proposed which are visible to the eye, including but not limited to, parking meters, trees, manhole covers and utility poles or openings.
- (3) An operations plan specifying the proposed dates, days and hours of operation of the sidewalk retail area, the hours of operation of the adjacent restaurant, scheduled maintenance of the permit area, maximum seating capacity, and method of providing security and maintenance.
- (4) Consistent with Section 30-407, an original of a certificate of insurance listing the required coverage amounts and policy periods of the permittee's general liability policies.

-
- (5) Any other information related to the requirements of this chapter that the Planning Director may require.
 - (6) If the proposed sidewalk sales area extends on to sidewalk areas abutting a property owned by someone other than the applicant, as provided in subsection (a) of Section 30-544 of this Chapter, the application shall include a written consent to said extension that includes the signature of the other owner.
 - (7) The City Manager is authorized to waive the annual license fee for any application if it is deemed to be in the city's interest, particularly to accommodate disruptions facilitated by the city.

(C.B. No. 2016-239 , § 3, 12-6-16; C.B. No. 2021-035 , § 1(Exh. A), 3-16-21)

Sec. 30-543. Review of Applications.

- (a) *Review.* The Planning and Development Director, or their designee, shall review and approve the application for a sidewalk café or retail sales area permit and determine whether to issue the permit. No permit shall be issued pursuant to this Chapter unless the Planning and Development Director has determined the following:
 - (1) There are no outstanding fines, fees, taxes or other charges due and owed to the City by the applicant or the owners of the real property on which the establishment is located.
 - (2) The applicant has supplied all the information required on or by the application, and any additional information requested by the Planning and Development Director.
 - (3) All of the requirements of this Chapter have been met.
- (b) *Conditions.* The Planning and Development Director may impose conditions upon the issuance of a sidewalk cafe or retail sales area permit in order to protect the use of adjacent right-of-way for its intended purpose, to prevent congestion of vehicular or pedestrian traffic flow and to otherwise carry out the purpose and intent of this Article and this Code.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2016-239 , § 3, 12-6-16)

Sec. 30-544. Regulations.

- (a) *Location.* A sidewalk cafe or retail sales area is permitted only on sidewalks or designated plaza areas. The permit area shall be immediately adjacent to the establishment requesting the permit, or on sidewalks contiguous to the sidewalk adjacent to the establishment. If the proposed cafe area or retail sales area extends to areas abutting the property of another, the consent of that property owner shall be obtained before such area is approved as part of the permit.
- (b) *Restrictions.* No permit will be allowed if seats or equipment in the sidewalk cafe result in the need for additional restrooms and unless such additional restrooms are provided.
- (c) *Hours of Operation.* The hours when service is permitted at the sidewalk café or retail sales area shall be during business hours of the permittee, except that no sidewalk cafe or retail

sales area located on the sidewalk on Green Street between Fourth and Wright Streets shall operate between the hours of 10:00 p.m. and 6:00 a.m.

- (d) *General Requirements.* Any person making use of a sidewalk cafe or retail sales area shall do so in a reasonable manner with due regard for the health and safety of persons and property. No permittee shall make any physical alteration to public property without the written permission of the Planning and Development Director. A permittee shall owe a duty to the City of Champaign and third persons to maintain the permit area in a clean, safe and sanitary condition.
- (e) *Litter Prohibited.* The permittee shall keep the permit area free of litter, cans, bottles and spills at all times. The permittee shall promptly collect and dispose of all litter, trash and other waste materials associated with the outdoor cafe, including waste material in the adjacent public right-of-way. This includes, but is not limited to, cigarette butts, gum, food material, glassware and bodily fluids. The permittee shall dispose of any such waste in their own trash containers only. Permittee shall power wash the permit area no less than once per year.
- (f) *Outdoor Cooking.* Outdoor cooking and food preparation shall only be permitted in sidewalk cafes that are located in plaza areas as defined in Subsection 30-540(4); provided that the permittee meets all applicable State and Local code requirements, including but not limited to those specified by the Champaign-Urbana Public Health District. Any grease or waste associated with food preparation performed in an outdoor cafe area must be promptly disposed of in a property container. Serving areas within the permitted area must be organized in a way not to impede emergency exits.
- (g) *Restoration.* Upon the expiration or other termination of a sidewalk café or retail sales area use permit, the permittee shall immediately remove all tables, chairs, furnishings, equipment and other items of personal property from the permit area. Any such items remaining upon the public right-of-way may be removed and disposed of by the City of Champaign at the sole cost and expense of the permittee.
- (h) *Live Entertainment.* Live music shall be allowed in a permit area, provided that it operates between the hours of 10:00 a.m. to 11:00 p.m. Sunday through Thursday and 10:00 a.m. to 1:00 a.m. on Friday and Saturday. All music in sidewalk cafes or retail sales areas shall comply with the City's noise regulations in Chapter 21 of this Code.
- (i) *Café Equipment Restricted—Sidewalks.* Only the following types of furniture or other equipment may be located in a sidewalk cafe that is not located in a plaza area:
 - (1) Tables and chairs;
 - (2) Umbrellas, provided they do not exhibit advertisement of any kind;
 - (3) Waste receptacles;
 - (4) Busing carts or pay station; and
 - (5) One (1) sandwich board sign or menu sign.

Said furniture and other equipment shall be portable, shall not be chained, bolted or otherwise secured together as a unit, shall not be affixed to the surface of the permit area,

and shall be removed on a nightly basis within thirty (30) minutes after cessation of service in the outdoor cafe.

- (j) *Retail Area Equipment Restricted—Sidewalks.* Only the following types of furniture or other equipment may be located in a sidewalk sales area that is not located in a plaza area:

- (1) Tables and chairs, clothing racks, mannequins, or other merchandise display fixtures not including signage;
- (2) Umbrellas, provided they do not exhibit advertisement of any kind;
- (3) Waste receptacles;
- (4) Pay station; and
- (5) One (1) sandwich board sign.

Said furniture and other equipment shall be portable, shall not be chained, bolted or otherwise secured together as a unit, shall not be affixed to the surface of the permit area, and shall be removed on a nightly basis within thirty (30) minutes after cessation of service in the outdoor sales area.

- (k) *Equipment Restricted—Plazas.* Only the following types of furniture or other equipment may be located in a sidewalk cafe that is located in a plaza area:

- (1) Tables and chairs;
- (2) Umbrellas, provided they do not exhibit advertisement of any kind;
- (3) Waste receptacles;
- (4) Fencing or other physical barriers along the boundary of the permit area;
- (5) Portable bars;
- (6) Busing carts or pay station;
- (7) Portable heaters; and
- (8) One (1) sandwich board sign or menu sign.

Said furniture and other equipment may be chained, bolted or otherwise secured together as a unit, may be affixed or otherwise secured to the surface of the permit area to the extent that said action is specifically authorized in the sidewalk cafe permit, and shall not be required to be removed on a nightly basis.

- (l) *Size and Spacing.*

- (1) The maximum allowable dimension for tables shall be forty-eight (48) inches in diameter, forty-eight (48) inches in width or length, and thirty (30) inches in height.
- (2) Tables shall be freestanding with detached chairs or seating, unless it is determined that another design meets the intent of these regulations and a specific exception is permitted in writing by the Planning and Development Director.
- (3) Umbrellas shall have a maximum diameter of ten (10) feet, a weighted base and be fabric covered. No portion of any umbrellas shall extend beyond the boundaries of the cafe.

- (4) No signs, banners, sandwich boards or other like advertising, except for one sandwich board, no larger than six (6) square feet in area on any one of two (2) sides, no greater than four (4) feet in height, shall be located in the permit area.
- (5) Tables, chairs, umbrellas, sandwich boards, and other permissible equipment shall be located in the sidewalk cafe area so that there remains open, at all times, a longitudinal walking space, the location of which shall be determined by the Director of Public Works or designee, of a minimum of five (5) feet in width, which distance may be increased if the Director of Public Works or Planning and Development Director deems it necessary for pedestrian safety, with a cross-slope not to exceed Americans with Disability Act (ADA) requirements. This minimum may similarly be reduced by the Directors in areas of low pedestrian traffic or at specific pinch points where physical conditions warrant an exception. This reduction shall never be less than the thirty-six-inch (36") minimum required for ADA compliance.
- (m) *Portable Heaters.* The placement of portable heaters must be reviewed and approved by the City's Fire Inspector.
- (n) *Rules.* The Planning and Development Director may promulgate administrative rules which relate to the requirements contained in this article. Such rules shall be attached to the permit and be followed by the permittee. Any rules promulgated after a permit is issued shall be immediately published and distributed to the permittee(s).
- (o) *Public Nuisance Declared.* Any permit area or operations therein in violation of the regulations contained in this Article, any rules promulgated thereunder, and otherwise applicable within the Code is hereby declared a public nuisance. No permit area shall be or become a public nuisance.
- (p) *Use and Enjoyment.* The lawful use and quiet enjoyment of nearby tenants or property owners shall not be disturbed by a permit area, or by the activities therein.
- (q) *Notice.* Notice to a manager or employee of the permittee shall be deemed notice to the permittee.
- (r) *City Manager.* References to the City Manager contained in this Article shall mean the City Manager or his/her designee.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2014-066, § 3, 4-15-14; C.B. No. 2016-239, § 3, 12-6-16; C.B. No. 2021-071, § 1(Exh. A), 6-1-21)

Sec. 30-545. Temporary Nature of Use.

- (a) *Revocable Permits.* The use of a public sidewalk as a sidewalk cafe or retail sales area shall be subject to temporary suspension or termination at any time by the City in the interest of the public health, safety and welfare. To the extent that a permit area or any portion thereof is needed by the City for the purposes for which it was dedicated, or any other public purpose, the City may immediately terminate the revocable use permit or the continued use of any fixtures thereon by sending written notice to the permittee, and assume full possession and control of the permit area. The permittee shall remove all fixtures, equipment, and furniture from the right-of-way within the time specified by the notice. If

the item(s) are not removed by the permittee, the City shall be authorized to remove all furniture and other objects of permittee from the permit area.

- (b) *Abandonment.* If such fixtures, equipment, and furniture is not reclaimed by the permittee within seven (7) days after removal by the City, the property shall be presumed abandoned and subject to disposal according to law, and all costs shall be assessed to the permittee pursuant to Section 30-547.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2016-239 , § 3, 12-6-16; C.B. No. 2021-071 , § 1(Exh. A), 6-1-21)

Sec. 30-546. Public Property.

The provisions of this section shall apply only to the locating of sidewalk cafes or retail sales areas on public property or public right-of-way and shall not apply to any private property.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2016-239 , § 3, 12-6-16)

Sec. 30-547. Payment for Cleaning or Damages.

- (a) *Conditions.* No permit area, including fixtures thereon, shall cause damage to any City property, including but not limited to sidewalks, pavement, greenery, street trees, or other public property. As an express condition of the issuance of the permit, the permittee shall agree to, within seven (7) days after the billing date, pay to the City: all costs associated with damage to the pavement or other City-owned property and/or facilities located in or adjacent to the permit area caused by operation of the permittee establishment, including but not limited to, damage due to or caused directly or indirectly by fixtures placed or installed thereon; removal and/or storage of items or fixtures associated with the permit area; and/or the cleaning of or trash removal from the permit area or adjacent premises occasioned by the failure of the permittee to clean or remove such trash.
- (b) *Agreements.* The Planning and Development Director is authorized to execute the agreements required in subsections (a) and (b) above after the form thereof has been approved by the City Attorney.
- (c) *Debt.* Any cost under this section shall constitute a debt due and owing to the City of Champaign if unpaid for a period of thirty (30) days or longer from the date of invoice. The permittee shall be responsible for the costs to the City associated with collection of any debt under this Article, including attorneys' fees.

(C.B. No. 2013-167, § 1(Exh. A), 9-17-13; C.B. No. 2016-239 , § 3, 12-6-16; C.B. No. 2021-071 , § 1(Exh. A), 6-1-21)

Sec. 30-548. Accessibility.

- (a) The permit area, including any equipment, furniture, and fixtures therein, shall at all times comply with all applicable laws and regulations concerning accessibility and nondiscrimination of service, including the Americans with Disabilities Act (the "ADA") and the City of Champaign Human Rights Ordinance.
- (b) The permittee shall cause an accessible route to be maintained at all times, both within the and the permit area and in the surrounding areas, including sidewalks and roadways. The permittee shall actively monitor its permit area for accessibility access and compliance, and shall immediately remediate any inaccessibility or noncompliance with applicable law.
- (c) Responsibility to ensure and maintain accessibility and compliance with accessibility laws, including the ADA, shall be solely that of the permittee, and does not rest or rely upon notice to the permittee by the City of Champaign or any other party.

(C.B. No. 2021-071 , § 1(Exh. A), 6-1-21)

Sec. 30-549. Indemnification; Insurance.

- (a) The permittee bears sole liability for the maintenance, use, and/or operation of the permit area. The permittee permanently indemnifies and holds harmless the City of Champaign and all of its employees, officials, and agents from any and all suits, claims, and/or judgments, including costs of the same and attorneys' fees, that relate in any way, whether directly or indirectly, to the existence, use, and/or operation of the permit area, including but not limited to, the placement, installation, and/or use of furniture, equipment, and fixtures. This section specifically includes but is not limited to all accessibility laws, including the Americans with Disabilities Act. Issuance by the City of a permit and/or approval by the City of any application, waivers, plans, or other items, documents, or specifications submitted by the permittee or otherwise related to the permit area shall not be a defense to this Section, and the City, including its employees, officials, and agents, bears no liability for the same. Through acceptance of a permit, the permittee accepts these terms.
- (b) Proof of insurance in an amount to be determined by the City Manager shall be submitted at the time of application for a permit. Such insurance shall be in place for the entire permit area for the duration of its use, and shall name the City of Champaign as an additional insured.

(C.B. No. 2021-071 , § 1(Exh. A), 6-1-21)

Sec. 30-549.1 RESERVED**Sec. 30-549.2 RESERVED****Sec. 30-549.3 RESERVED**