



City of Chicago



O2015-5379

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 7/29/2015

Sponsor(s): Tunney (44)
Smith (43)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 10-28 by adding new Article XIV entitled "Pilot Program Establishing Curbside Cafes"

Committee(s) Assignment: Committee on License and Consumer Protection

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 10-28 of the Municipal Code of Chicago is hereby amended by adding a new Article XIV, section 10-28-1000 through and including section 10-28-1160, as follows:

ARTICLE XIV PILOT PROGRAM ESTABLISHING CURBSIDE CAFÉS.

10-28-1000 Pilot program.

A pilot program establishing a curbside café permit is hereby established. The program shall run from January 1, 2016 to December 31, 2016.

10-28-1010 Definitions.

Wherever used in this Article, the following definitions apply:

"Alcoholic beverages," "Commissioner," "Department" and "Food" have the meaning ascribed to those terms in section 10-28-800.

"Curbside café" means that portion of an immobile retail food establishment operating, pursuant to a permit, in a section of the traffic lane closest to the curb that is normally used for parking.

"Immobile retail food establishment" means a retail food establishment issued a retail food license for a fixed location inside a building.

"Permittee" means a person who has been issued a curbside café permit.

10-28-1020 Permit required for curbside café.

No person shall operate a curbside café without first obtaining a permit under this Article. A curbside café permit shall be valid from May 1st to and including September 30th of the year of its issuance. The fee for the permit shall be \$100.00. In addition to the permit fee, the permittee shall pay an amount equal to any anticipated lost parking meter revenue for any parking space used for the operation of the curbside café.

10-28-1030 Permit application and approval procedure.

An application for a curbside café permit shall be submitted to the commissioner in a form and format prescribed by the commissioner. The applicant shall include:

(a) Proof that the applicant holds a valid retail food establishment license for an immobile retail food establishment.

(b) Proof of insurance as required by this Article.

(c) A plan for the curbside café, complying with applicable regulations and demonstrating that the curbside café shall not unreasonably interfere with: (1) adequate pedestrian or vehicular flow, (2) pedestrian and vehicular safety; or (3) the aesthetic quality of the surrounding area.

(d) Applications shall be processed on a first-in-time basis. If two or more applications are filed at the same time for a location on the same side of a block and both applications meet

the requirements of this Article for approval, the commissioner shall conduct a lottery to determine which application to provide to the alderman pursuant to section 10-28-1050(b).

(e) Any other pertinent information reasonably required by the commissioner.

10-28-1040 Insurance required.

Each applicant shall furnish a certificate of insurance evidencing commercial general liability insurance with limits of not less than \$500,000.00 per occurrence, \$1,000,000.00 in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide for 30 days prior written notice to be given to the commissioner if coverage is substantially changed, canceled or non-renewed.

The city shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operations of a curbside café; and the permittee shall indemnify, defend and hold the city harmless from any loss that results directly or indirectly from the permit issuance.

If alcoholic beverages will be served at the curbside café, the applicant shall provide proof of liquor liability (dramshop) insurance for the curbside café as required by section 4-60-040(c)(2) of this code.

Each permittee shall maintain the insurance coverage required under this section for the duration of the permit. The certificate of insurance shall be presented to the commissioner prior to the issuance of a permit. Failure of the permittee to maintain the insurance shall result in the revocation of the curbside café permit.

10-28-1050 Review of application.

(a) The commissioner shall send a copy of the application to commissioner of transportation. Within five business days of receipt of the application from the commissioner, the commissioner of transportation shall review the application to determine whether the location of the curbside café will unduly interfere with pedestrian or vehicular traffic or parking within the area. If the commissioner of transportation determines that the location of the curbside café will unduly interfere with either pedestrian or vehicular traffic or parking within the area, the commissioner shall deny the application pursuant to subsection (c).

(b) If the commissioner finds that the applicant meets the requirements of this Article and the regulations promulgated hereunder, the commissioner shall provide the application to the alderman of the affected ward, together with a recommendation for introduction of an ordinance approving the application. Such approval shall not be unreasonably withheld. Once an ordinance approving the application is effective, the commissioner shall issue the curbside café permit to the applicant.

(c) If the commissioner finds that the applicant fails to meet the requirements of this Article or the regulations promulgated hereunder, or if approval by ordinance is withheld, the commissioner shall deny the application. The commissioner shall notify the unsuccessful applicant in writing of the denial and the reasons therefor within ten business days after the denial.

10-28-1060 Compliance with plan and other components of application.

(a) Each curbside café shall comply in all respects with the specifications set out in the plan submitted to the commissioner, and with the other components of the application.

(b) In the event that the application, including the plan, becomes inaccurate or incomplete in any respect as a result of circumstances or events outside the control of the permittee, the permittee shall notify the commissioner within three business days of such circumstances or events.

(c) Before taking any action that would result in the application, including the plan, becoming inaccurate or incomplete in any respect, the permittee shall seek the prior approval of the commissioner.

(d) Upon being notified of an actual or contemplated change pursuant to this section, the commissioner shall review the change to determine if such change is insubstantial or substantial, using the same criteria as relevant to the commissioner's consideration of an initial application. If such change is insubstantial and if the application, as so changed, meets the criteria for an initial application, the commissioner shall approve the change. If such change is insubstantial and if the application, as so changed, does not meet the criteria for an initial application, the commissioner shall disapprove the change. If such change is substantial, a new permit application shall be required.

10-28-1070 Permit – Assignment or transfer prohibited.

No permittee shall assign or transfer a curbside café permit.

10-28-1080 Restrictions on issuance of a permit.

(a) Only one curbside café permit shall be issued for a location on the same side of a block.

(b) A curbside café is only permitted on a pedestrian retail street designated pursuant to section 17-3-0503-D that has less than 8 feet of sidewalk in front of the immobile retail food establishment.

(c) The permitted outdoor seating area of curbside café shall not exceed a maximum length of 25 feet, nor extend into the street beyond the parking lane.

(d) The permitted outdoor seating area of curbside café must be located by the curb immediately in front of the immobile retail food establishment.

(e) The permitted outdoor seating area of curbside café is prohibited in a bicycle lane or within 15 feet of an intersection, bus stop, loading zone, or fire hydrant.

(f) The location of the curbside café shall not unduly interfere with pedestrian or vehicular traffic or parking in the area.

(g) No curbside café permit shall be issued for any location within the central business district, as that term is defined in section 9-4-010.

10-28-1090 Operational conditions.

(a) Curbside cafés shall not operate before the hour of 8:00 a.m. or later than midnight.

(b) A permittee shall not permit any music, whether live or recorded, or other amplified sound to be played at the curbside café, other than through headphones.

(c) The permittee shall: (1) install and maintain a physical boundary separating the permitted outdoor seating area from the remainder of the traffic lanes; and construct the curbside café to make its floor height the same height as the sidewalk in order to avoid a tripping hazard. The construction, configuration and other characteristics of the boundary and construction, including landscaping, shall be set forth by regulation.

(d) The permitted outdoor seating area of the curbside cafés shall be for the exclusive use of the immobile retail food establishment stated on the application. Sharing or other joint use of a curbside café location by more than one retail food establishment shall not be permitted.

(e) Only the service of food and alcoholic beverages at curbside cafés are authorized by this Article.

10-28-1100 Alcoholic beverage service – Requirements.

If alcoholic beverages are served at the curbside café, the permittee must have a valid liquor license. Alcoholic beverages supplied by the customer or by any person other than the permittee will not be allowed at curbside cafés.

10-28-1110 Compliance with code and regulations required.

A permittee and his employees shall be subject to and comply with all applicable laws, regulations and other requirements and standards for retail food establishments and the sale of alcoholic beverages.

10-28-1120 Promulgation of regulations; force and effect.

The commissioner is authorized to promulgate regulations to carry out the purposes of this Article, including without limitation regulations governing:

(a) The location, arrangement and design of curbside cafés to ensure the flow of pedestrian and vehicular traffic, the safety of pedestrians and vehicular traffic, and the access to bus stops, loading zones and fire hydrants;

(b) The size, design and other specifications for tables and serving equipment to be used by a permittee, and the design of enclosures or partial enclosures;

(c) The types of food and beverages that may be served at curbside cafés;

(d) The time periods during which an application can be made for a curbside café permit;

(e) Landscaping and other aesthetic components of the curbside café; and

(f) Any other matter pertaining to this Article.

In promulgating the rules regarding the location, arrangement and design of any curbside café, the commissioner shall consult with the commissioner of transportation.

10-28-1130 Enforcement.

(a) The commissioner is authorized to take such action as necessary to enforce the provisions of this Article, including conducting on- site inspections of curbside cafés.

(b) Upon request by the commissioner, a permittee shall provide for inspection any document required by this Article, including the curbside café permit, the plan for the curbside café, and proof of insurance.

(c) Any curbside café for which a permit is required by this Article, and which has failed to obtain such permit, may be closed by the commissioner until such permit is procured. Upon being notified of closure, all curbside café activity must cease, and all obstructions in the public way, including boundaries, tables and chairs, must be removed.

(d) Any curbside café for which a permit is in effect under this Article may be temporarily closed by the commissioner, if the café has been issued notices of violation on three different days during the permit period, each of which pertains to a significant breach of public safety. Non-limiting examples include: (i) café encroachment on the public way beyond plan specifications, (ii) a missing or incomplete barrier, or (iii) signs, serving tray stands or other objects in the public way. Upon being subjected to a temporary closure, the permittee may provide to the commissioner evidence that the objectionable conditions have been fully remedied. Such temporary closure shall remain in effect until the commissioner is satisfied that the violations have been properly remedied and will not reoccur.

10-28-1140 Violation – Penalties.

(a) Any person who violates any of the provisions of this Article or regulations promulgated hereunder shall be subject to a fine of not less than \$200.00 nor more than \$500.00 for each offense and each day such a violation continues shall be deemed a separate and distinct offense.

(b) In addition to any other fine or penalty provided, and any person who knowingly interferes with or impedes the commissioner in the enforcement of this Article may be subject to incarceration for a term not to exceed six months.

(c) Any curbside café in operation without a valid permit or subject to section 10-28-1130(d) is subject to removal from the public way by the commissioner. The provisions of Section 10-28-010(i) of the code shall apply to the removal of any portion of a curbside café, from the public way, whether for unpermitted operation or for obstruction of public way; provided, however, that the amount of the fine for a violation shall be as set forth in this section.

10-28-1150 Violation – Permit revocation.

In addition to fines and other penalties as provided for herein, three or more violations of any provision of this Article or regulations promulgated hereunder within a permit period shall subject the permittee to revocation of the curbside café permit by the commissioner.

10-28-1160 Sunset.

This ordinance shall expire on December 31, 2016.

SECTION 2. Section 17-3-0207 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

17-3-0207 Use Table and Standards.

USE GROUP	Zoning Districts						Use Standard	Parking Standard
	Use Category	B1	B2	B3	C1	C2		

Specific Use Type								
P= permitted by-right S = special use approval required PD = planned development approval required - = Not allowed								
(Omitted text is unaffected by this ordinance)								

AA. Eating and Drinking Establishments								
1.	Restaurant, Limited	P	P	P	P	P	P	§ 17-10-0207-M
2.	Restaurant, General	-	-	P	P	P	P	§ 17-10-0207-M
3.	Tavern	-	-	S	P	P	P	§ 17-10-0207-M
4.	Outdoor patio (if located on a rooftop)	-	-	S	S	S	S	§ 17-10-0207-M
5.	Outdoor patio (if located at grade level)	P	P	P	P	P	P	§ 17-10-0207-M
6.	<u>Curbside café</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>	§17-9-0131

SECTION 3. Section 17-4-0207 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

17-4-0207 Use Table and Standards.

USE GROUP	Zoning Districts				Use Standard	Parking Standard
	DC	DX	DR	DS		
Use Category						
Specific Use Type						
P= permitted by-right S = special use approval required PD = planned development approval required - = Not allowed						
(Omitted text is unaffected by this ordinance)						

AA. Eating and Drinking Establishments (all, including Taverns)	P	P	-	P		§ 17-10-0208
1. <u>Curbside café</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		

SECTION 4. Section 17-5-0207 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

17-5-0207 Use Table and Standards.

USE GROUP	District	Use	Parking
-----------	----------	-----	---------

Use Category		M1	M2	M3	Standard	Standard
Specific Use Type						
P = permitted by-right S = special use approval required PD = planned development approval required - = Not allowed (Omitted text is unaffected by this ordinance)						

Q. Eating and Drinking Establishments						
1.	Restaurant, Limited	P	P	P	Max GFA: 4,000 sq ft; no entertainment allowed	§ 17-10- 0207-M
2.	Restaurant, General	P	P	P	Max GFA: 4,000 sq ft; no entertainment allowed	§ 17-10- 0207-M
3.	Tavern	P	P	P	Max GFA: 4,000 sq ft; no entertainment allowed	§ 17-10- 0207-M
4.	<u>Curbside café</u>	=	=	=		

SECTION 5. Section 17-6-0403-F of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

17-6-0403-F Use Table and Standards.

USE GROUP		PMD (Planned Manufacturing District)															Use Standard					
Use Category	No. 1		No. 2		No. 3	No. 4		N o. 5	N o. 6	No. 7		No. 8		N o. 9	No. 10	No. 11		No. 12	N o. 13	N o. 14	N o. 15	
	Specific Use Type	A	B	A		B	A			B	A	B	A			B						A
P = permitted by right S = special use approval req'd PD = planned development approval req'd - = not allowed																						

(Omitted text is unaffected by this ordinance)

Q. Eating and Drinking Establishments	
---------------------------------------	--

1.	Restaura nt, Limited	-	P	P	P	P	P	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P	Max GFA: 4,000 sq ft; no entertain ment allowed. No GFA limit in B subdistrict s, except PMD 4.	
2.	Restaura nt, General	-	P	P	P	P	P	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P	-	Max GFA: 4,000 sq ft; no entertain ment allowed. No GFA limit in B subdistrict s, except PMD 4.
3.	Tavern	-	P	P	P	P	P	P	P	P	P	P	P	S	S	P	P	P	P	P	P	P	-	-	Max GFA: 4,000 sq ft; no entertainm ent allowed. No GFA limit in B subdistrict s, except PMD 4.
4.	Curbside café	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=		

SECTION 6. Section 17-9-0100 of the Municipal Code of Chicago is hereby amended by adding a new section 17-9-0131, as follows:

17-9-0100 Use standards.

(Omitted text is unaffected by this ordinance)

17-9-0131 Curbside cafés. Curbside cafés shall comply with the following standards:

1. Curbside cafés are only permitted on a Pedestrian Retail street that has less than 8 feet of sidewalk in front of an immobile retail food establishment, as that term is defined in section 10-28-1010.

2. Only one curbside café is permitted on the same side of a block.
3. The outside seating area of a curbside café:
 - (a) cannot not exceed a maximum of 15 feet in length;
 - (b) must be located by the curb immediately in front of the immobile retail food establishment; and
 - (c) cannot be located in a bicycle lane or within 15 feet of an intersection, a bus stop, loading zone, or fire hydrant.

SECTION 7. Chapter 17-17 of the Municipal Code of Chicago is hereby amended by adding a new section 17-17-0242.5, as follows:

(Omitted text is unaffected by this ordinance)

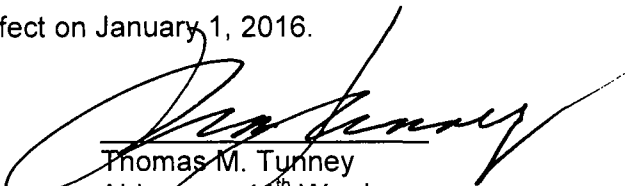
17-17-0241 Corner Lot. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

17-17-0241.5 Curbside café. "Curbside café" means that portion of an immobile retail food establishment, as that term is defined in section 10-28-1010, operating, pursuant to a curbside café permit, in a section of the traffic lane closest to the curb that is normally used for parking.

17-17-0242 Curb Level. The level of the established curb that is adjacent to the front property line of the subject lot, measured at the center of such front property line. When no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building is considered the "curb level".

(Omitted text is unaffected by this ordinance)

SECTION 8. This ordinance takes effect on January 1, 2016.


Thomas M. Tunney
Alderman, 44th Ward

