

Ordinance of the City of Jersey City, N.J.

File No. Ord.
Agenda No. (1st Reading)
Agenda No. (2nd Reading and Final Passage)



ORDINANCE AMENDING CHAPTER 160 (FEES AND CHARGES), SECTION JJ (STREETS AND SIDEWALKS) AND CHAPTER 296 (STREETS AND SIDEWALKS), ARTICLE XII (SIDEWALK CAFES) TO ESTABLISH NEW REGULATIONS FOR SIDEWALK CAFES TO ALLOW THE SIDEWALK CAFES TO OPERATE YEAR ROUND.

COUNCIL AS A WHOLE offered and moved adoption of the following ordinance:

A. Chapter 160 (Fees and Charges) Section JJ (Chapter 296, Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks) Article XII (Sidewalk Cafes) are hereby amended as follows:

CHAPTER 160 FEES AND CHARGES

§ 160-1. - Fee schedule established.

A.through II.

NO CHANGE.

JJ. Chapter 296, Streets and Sidewalks

(1) – (5) No change.

(6)

- a. ~~The annual license fee for a seasonal sidewalk café~~The annual license fee for a Sidewalk Café License – Category 1 shall be \$225 for a sidewalk café seating sixteen (16) or fewer patrons and \$275 for a sidewalk café seating over sixteen (16) patrons renewable on or before March 31 of each year. The fee shall not be prorated for less than a full year. A seasonal sidewalk café may only operate from March 15 to November 30 of each year or on any day December 1 through March 14 that the temperature rises above 55 degrees Fahrenheit. These fees shall be waived during the State of Emergency declared in New Jersey due to the COVID-19 pandemic.
- b. The annual license fees for a Sidewalk Café License – Category 2 shall be waived during the State of Emergency declared in New Jersey due to the COVID-19 pandemic.
- c. The annual fees for sidewalk café space in any pedestrian mall/plaza shall be waived during the State of Emergency declared in New Jersey due to the COVID-19 pandemic.
- d. ~~Where a special improvement district (SID) duly exists within the City of Jersey City, the SID shall have the option of paying one annual license fee for all sidewalk cafes within its boundaries. This annual fee shall be two thousand dollar (\$2,000), payable and renewable by the SID to the City of Jersey on or before March 31 of each year. The City shall supply the SID with the appropriate number of individual permits needed.~~

CHAPTER 296 STREETS AND SIDEWALKS

Article XII Sidewalk Cafes

§ 296-79. - Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPROVED AS TO LEGAL FORM

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Ordinance Amending Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

FOOD SERVICE ESTABLISHMENT — A facility established primarily for the service of food and drink which shall include restaurants of all classes, bakeries, ice cream parlors, taverns and delicatessens.

SIDEWALK — That portion of the public easement which lies between the building line and the curb.

SIDEWALK CAFÉ — The use of partitioned sidewalk space beyond the building line to accommodate tables, chairs, and the serving of food and drink to patrons of a restaurant fronting on that space.

PARKLET --- A sidewalk café located in parking spaces in front of a business.

§ 296-80. - Operation of a Sidewalk Café; Projection into sidewalks.

A. No person may operate a sidewalk café without obtaining a license from the Division of Commerce pursuant to the procedures provided for in 296-83 herein. There are two types of sidewalk café licenses available:

- 1) Sidewalk Café License - Category 1: sidewalk cafes under this license are permitted to operate from March 15 and any day between December 1- March 14 with a temperature above 55 degrees.
- 2) Sidewalk Café License - Category 2: sidewalk cafes under this license are permitted to operate from December 1 – March 14 with permitted semi-permanent structures.

B. No sidewalk café shall be permitted to project into a sidewalk more than half the width of said sidewalk, but only to a maximum of ten (10) feet. In no case shall it extend so far as to leave less than six (6) feet for pedestrian traffic.

C. Prior to the issuance of a license, Division of Commerce Inspector will visit and measure the site, take photographs and gather such information as is necessary to fully inform the Departments set forth in 296-83(b).

§ 296-81. - Permitted location; regulations.

A. Sidewalk cafés shall only be permitted in front of a food service establishment that is permitted current conforming under the City's zoning ordinances. Food service establishments seeking to expand a prior nonconforming use shall be required to obtain the appropriate variance from the Jersey City Zoning Board of Adjustment. In those situations where a food service establishment is located on a corner, both the front and side sidewalk areas fronting the food service establishment may be used for the sidewalk café. A survey, schematic, or other evidence of the location of the boundary line must be provided to the Division of Commerce.

B. All sidewalk cafés shall comply with the following regulations:

- (1) The sidewalk café area shall be partitioned by a three-sided, movable structure separating the sidewalk café from the public portion of the sidewalk, and which is no less than 30 inches in height and no more than 36 inches in height, providing one opening for entrance and exit which is no less than 42 inches in width and no more than 60 inches in width, and whose boundaries allow patrons and pedestrians to clearly ascertain the entrance and exit to the sidewalk café area.
- (2) All fence partitions shall be secured in place by means of drilling holes in the sidewalk for the insertion of fence partition posts so as to prevent encroachment of the pedestrian right-of-way.
- (3) All fence partitions shall be removed and all sidewalk holes shall be capped at the end of each business day and whenever the café is not in use.
- (4) In a Historic District (as defined in Chapter 34), the movable structures described herein shall be in keeping with the style of the building and the surrounding historic resources. The use of traditional fencing materials such as iron, steel, or other metals, in traditional forms, is encouraged. All partitions must be topped with a horizontal rail with no projections above it. All sidewalk cafés within a Historic District shall obtain a Certificate of No Effect or a Certificate of Appropriateness from the Jersey City Historic Preservation Commission before installation of the structure described herein.

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Ordinance Amending Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

5. Sidewalk Cafés with Category 1 licenses may have an overhead covering consisting of either an individual umbrella over each table or a retractable awning covering all tables and chairs, and no part of the covering shall project over the railing into the public sidewalk area; and umbrellas must be of sufficient height to allow free passage under them. In the Historic District, all awnings and/or umbrellas shall conform to the awning and umbrella standards contained in Section 345-71.

6. Sidewalk Cafés with Category 2 licenses may install semi-permanent roofs, which include any structure that is not permanently affixed to the street, sidewalk, or buildings and one that can be removed or repositioned, such as retractable awnings, tents, gazebos, and screens, and shall comply with all applicable state regulations. Semi-permanent roofs may not extend beyond the boundaries of the sidewalk café area and shall have a maximum material thickness of 2 inches. Roof supporting elements may be no closer than 24 inches on center. Roofs may be no higher than 12 feet and no lower than 8 feet from the café floor.

7. Sidewalk Cafés with Category 2 licenses may install semi-permanent partitions along the outer edges of the café area, which include any structure that is not permanently affixed to the street, sidewalk, or buildings and one that can be removed or repositioned, and shall comply with all applicable state regulations. Semi-permanent partitions may be installed on no more than 3 sides of the sidewalk café area and may extend no higher or wider than partition size limits as described in section § 296-81.B(1). Openings between the partition and the roof (if applicable) may be covered with see through materials such as plastic sheeting or plexiglass, but standard glass is prohibited and coverings may not be placed on more than 2 sides at any one time. Partitions may be no thicker than 6", except for supporting elements of the roof.

8. Sidewalk Cafés with Category 2 licenses must either store all structural materials inside the premises overnight or else must otherwise undergo review and approval from the Zoning Board of Adjustment in accordance with chapter §345-8.

(9) Alcoholic beverages, when permitted under this article, shall not be served or consumed on any sidewalk or any other public area which is outside the partitioned area of the sidewalk café. Alcoholic beverages may only be served in accordance with ABC rules and regulations, and additional permits may be required to serve alcoholic beverages in sidewalk cafes.

(10) All areas comprising the sidewalk café, including tables and chairs, shall remain clean and orderly at all times.

(11) The number of patrons served in the sidewalk café shall be limited to the maximum number indicated on the sidewalk café license. No persons other than those being served and restaurant personnel shall be within the sidewalk café area except for those persons passing through the sidewalk café area to enter or exit the restaurant proper.

(12) No planters, flower boxes, menu stands and/or other decorative items are allowed to protrude outside the fence partition area in order to keep clear the pedestrian right-of-way.

(13) No audio speakers may be placed outside of the Food Service Establishment.

(14) No advertising signs, banners, or menus shall be placed (on), draped, or attached to the fence partition.

(15) Sidewalk Cafés with Category 2 licenses may use lighting, heating, and air circulation devices. Such devices shall be placed within the boundaries of the sidewalk café and shall be placed and used in such a way that minimizes the impact/effect on adjacent cafes, businesses, buildings, and pedestrians nearby.

- a) Any outdoor heating device shall be subject to fire code inspection and must be used in accordance with all applicable New Jersey fire code regulations (see section 603.4.2).
- b) Sidewalk cafes with heating devices must position the heating devices in accordance with NJ Fire code regulations section 603.4.2.1, as follows:
 - a. not closer than 5 feet (1524 mm) to combustible decorations and combustible overhangs, awnings, sunshades or similar combustible attachments to buildings
 - b. Not closer than 5 feet (1524 mm) from exits
 - c. Not inside tents or canopies and membrane structures (cafes must have an open roof area within 5 feet of where heating devices are present)

(16) Unless otherwise stated, entertainment is permitted within the boundaries of the sidewalk café no more than one (1) event per week and shall be limited to four (4) performers. All entertainment is required to conclude by 8:00 pm.

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Ordinance Amending Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

C. Sidewalk Cafés with Category 2 licenses alongside any Pedestrian Mall/plaza area are subject to the following additional rules and regulations:

- (1) The sidewalk café area may extend into the street with the following restrictions:
 - a) The café area must provide a walkway of at least 5 feet along the sidewalk through the café for ADA access that shall be kept clear of all furniture and fixtures at all times, and all areas of sidewalk cafes must provide for sufficient ADA access to both the café areas and sidewalks.
 - b) The café in the street may extend to no further than 3 feet from the farthest edge of the travel lane (double yellow line) if the Pedestrian Mall only includes one travel lane on the same side of the street as the café
 - c) The café may extend no further than 6 feet from the center of the street if the Pedestrian Mall includes a closure of the entire roadway
 - d) The café area may only extend beyond the property boundaries of the business with written approval from adjacent property owners and businesses, and shall not extend more than 20 feet beyond the property line in either direction.
- (2) Sidewalk Café license holders are responsible for snow and ice removal as well as the cleanliness of the entire sidewalk area in accordance with sidewalk rules and regulations.
- (3) Sidewalk Cafés on any pedestrian mall/plaza shall have no more than 1 live performance at any given time, and live performances shall only be permitted on Thursdays, Fridays, and Saturdays. No amplified music is permitted that is audible beyond the boundaries of the café.

D. Parklets

1. Parklets shall be subject to the same rules and regulations for Sidewalk Cafes with Category 2 licenses as described above regarding furniture and fixtures, sound, heating elements, entertainment, fees, and hours of operation.

2. Parklets must comply with all applicable ADA requirements.

3. Businesses may only install parklets in no more than two (2) parking spaces directly in front of the business. Any parking spaces that extend beyond the property lines for the business shall require approval in writing from adjacent property owners and businesses.

4. Parklets must be independently approved by the Division of Commerce and the Division of Engineering, Traffic and Transportation.

§ 296-82. - Permitted months and hours of operation.

Operation of seasonal sidewalk cafés shall be permitted from March 15 through November 30 inclusive, or on any day December 1 through March 14 that the temperature rises above 55 degrees Fahrenheit. Only approved sidewalk cafes may operate during temperatures below 55 degrees Fahrenheit and between November 30 and March 15, provided the year-round sidewalk café utilizes appropriate heating devices. The hours of operation of sidewalk cafés shall be between 8:00 a.m. and 10:00 p.m., Sunday through Wednesday; 8:00 a.m. and 11:00 p.m., Thursday; and between 8:00 a.m. and 12:00 midnight, Friday and Saturday, except that no alcoholic beverages, when permitted under this article, shall be served in a sidewalk café before noon on any day.

§ 296-83. - License fee, term, maximum number of patrons, and application; approvals required; revocation; closure; hearing.

A. The annual license fee for a sidewalk café shall be as provided in Chapter 160 (Fees and Charges) with no proration for part year, payable to the Division of Commerce. All licenses shall be renewable no later than March 31 of each year. The license shall indicate the maximum number of patrons to be served in the sidewalk café. The Division of Commerce shall issue such license upon duly presented application, together with plans and specifications detailing the sidewalk café area to be licensed, including number of patrons to be served, and adherence to all conditions set forth in this article as well as all applicable city and state laws and regulations.

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B. Prior to the granting of any license, the Division of Commerce shall notify the Departments of Police and Fire, the Directors of Zoning and Health, the Construction Official and, in the case of restaurants possessing a liquor license, the Alcoholic Beverage Control (ABC) Board. If no objection is received within thirty (30) days, the approval will be granted; provided, however, if a restaurant with a liquor license seeks an outdoor café that would constitute an expansion of the licensed premises, a permit will not be issued until the ABC Board approves the expansion. Any objection shall be in writing and shall set forth the reasons therefor. Sidewalk cafés located within the Historic District meeting all of the requirements contained in Section 345-71 shall obtain a certificate of no effect from the Jersey City Historic Preservation Commission for the partition, tables, chairs and overhead coverings and any other café appurtenances. Any cafés within a Historic District that are deemed by the Historic Preservation Officer not to meet those standards shall require a certificate of appropriateness. Upon receiving an application for a certificate of appropriateness, the Historic Commission shall decide whether to grant the certificate within one month of the receipt of the application.

C. The City of Jersey City has the right to deny any application or make reasonable modifications to the structure and/or design of the sidewalk café area in the interest of patron safety, safety of pedestrians and/or vehicles, emergency egress and access, possible crowding and noise issues, or for other reasons in the interest of public safety and quality of life.

D. The City of Jersey City, through its duly authorized agent, shall revoke the license of any sidewalk café licensee who has received three (3) or more complaints related to sound, entertainment, or other neighborhood disturbances in any calendar year and fails to respond to a hearing request within ten (10) days after receiving such request and/or any sidewalk café licensee who, upon the expiration of five days after receipt of notice from the City of Jersey City or its agents of a violation of city or state law or any of the requirements set forth in this article, fails to cure the violation.

E. The City of Jersey City may require the immediate closure and removal of all sidewalk cafés or other projections or encumbrances upon any street, sidewalk or public easement which are improperly constructed or maintained, or which otherwise create a hazard to the public.

F. A licensee aggrieved by any decision to revoke a license, or to close or remove a sidewalk café, shall be afforded a hearing before the Director of the Department of Housing, Economic Development, and Commerce, or his or her designee. Such request for hearing shall be in writing and delivered to the Director of the Division of Commerce, 30 Montgomery Street, Jersey City, New Jersey, 07302. Thereafter, a hearing shall be scheduled and a written decision explaining the reasons for affirming or reversing the decision aggrieved shall be issued. Any revocation shall render the licensee ineligible to receive another license under this article for a period of at least one year from the effective date of the revocation.

§ 296-84. - Enforcement.

The Department of Public Safety and the Division of Commerce shall have the authority to enforce this article.

§ 296-85. - Insurance required.

The applicant shall file with the City Clerk and the Division of Commerce, a certificate of liability insurance in the minimum amount of \$1,000,000, naming the City of Jersey City and its agents, servants, and employees as additional insureds, which policy shall be kept in full force during the operation of the sidewalk cafe. The policy of insurance must be occurrence based coverage.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible repeals of existing provisions.

D. This ordinance shall take effect at the time and in the manner provided by law.

Ord.

Ordinance Amending Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

E. This ordinance shall be a part of the Jersey City Code as though codified and incorporated in the official copies of the Jersey City Code.

NOTE: All new material to be inserted is underscored and material [~~struck through~~] is omitted.

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RECORD OF COUNCIL VOTE ON INTRODUCTION –						
RIDLEY		SALEH		LAVARRO		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		ROBINSON		WATTERMAN, PRES		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING –						
RIDLEY		SALEH		LAVARRO		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		ROBINSON		WATTERMAN, PRES.		

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY –						
RIDLEY		SALEH		LAVARRO		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		ROBINSON		WATTERMAN, PRES.		

RECORD OF FINAL COUNCIL VOTE –						
RIDLEY		SALEH		LAVARRO		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		ROBINSON		WATTERMAN, PRES.		

Adopted on first reading of the Council of Jersey City, N.J. on
Adopted on second and final reading after hearing on

This is to certify that the foregoing Ordinance was adopted
by the Municipal Council at its meeting on

City Clerk

Joyce E. Watterman, President of Council
Approved:

Steven M. Fulop, Mayor
Date to Mayor:
Approved:

Ord.

Ordinance Amending Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

FACT SHEET -

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the ordinance.

Project Manager

Brian Platt, Business Administrator	2015475147	BPlatt@jcnj.org
Division	Office of the Business Administrator	

Note: Project Manager must be available by phone during agenda meeting (Wednesday prior to council meeting @ 1:00 p.m.)

Purpose

The purpose of this Ordinance is to amend Chapter 160 (Fees and Charges), Section JJ (Streets and Sidewalks) and Chapter 296 (Streets and Sidewalks), Article XII (Sidewalk Cafes) to Establish New Regulations for Sidewalk Cafes to allow the Sidewalk Cafes to Operate Year Round.

Cost (Identify all sources and amounts)

n/a

Contract term (include all)

Approved by

- John Mercer, Assistant Business Administrator
- Melissa Kozakiewicz, Assistant Business Administrator
- Gregory Corrado, Asst. Business Administrator
- John McKinney, Attorney
- Peter Baker, Corporation Counsel
- Amy Forman, Attorney
- Nick Strasser, Attorney
- Norma Garcia, Attorney
- Ray Reddington, Attorney
- Jeremy Jacobsen, Attorney
- Sapana Shah, Attorney
- Brian Platt, Business Administrator

Status:

- Approved - Sep 30 2020
- None
- None
- None
- None
- None
- Approved - Oct 01 2020
- None
- None
- None
- None
- Pending