

# APPLICATION FOR ATHENS-CLARKE COUNTY SIDEWALK CAFÉ PERMIT

CALENDAR YEAR \_\_\_\_\_

Return completed application and \$100 application fee to: Athens-Clarke County Government, Central Services Department, P.O. Box 1868, Athens, Georgia, 30603-1868, or hand-deliver to the Central Services Department, 150 E. Hancock Avenue. After review and approval of your application, a \$1 per square foot fee will be due prior to issuance of a permit. For assistance or additional information, please call (706) 613-3530.

REFER TO THE SIDEWALK CAFÉ ORDINANCE FOR SPECIFIC REGULATIONS.

Name of Food/Beverage Establishment:

Name of Owner/Manager:

Street/Location Address:

Mailing Address:

Email Address:

Telephone Number:

Material used for rails:

Method to secure rails:

Height of rails:

Dimensions (width) from front wall of establishment:

Dimensions (length) of railing system:

Distance to nearest sidewalk obstacle:

Dimensions (width) of pedestrian clearance:

Applications will not be accepted without the following:

- Copy of valid Athens-Clarke County Occupational License.
- Copy of current Certificate of Insurance.
- Sketch identifying the perimeter area, the dimensions of area, the dimensions from perimeter to curb or nearest obstacle, and the design and materials of the required café railing system.

My signature below acknowledges that I have received a copy of the Sidewalk Café Ordinance, that I meet the eligibility requirements to obtain a Sidewalk Café Permit, and that I agree to comply with the Sidewalk Café Ordinance.

\_\_\_\_\_  
Signature of Owner/Manager

\_\_\_\_\_  
Date

**Central Services Department Use Only!**

Date of site visit \_\_\_\_\_

Permitted Square Footage \_\_\_\_\_

FEE \_\_\_\_\_

## CHAPTER 6-10. SIDEWALK CAFES\*

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**\*Editor's note:** An ordinance adopted Nov. 4, 2003, deleted former Ch. 6-10 in its entirety and added new provisions as Ch. 6-10 as herein set out. Former Ch. 6-10, §§ 6-10-1--6-10-6, pertained to similar subject matter and derived from § 1 of an ordinance adopted Nov. 4, 2003.

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### **Sec. 6-10-1. Purpose.**

This chapter shall apply to the establishment, operation, and maintenance of all outdoor cafes within Athens-Clarke County on public sidewalks. The purpose of this chapter is to promote the general economic development and atmosphere of Athens-Clarke County for the benefit of businesses and citizens located there, and no right of individuals or individual businesses are created therein, and to create an aesthetic ambiance which will attract tourists to the Athens area. Further, this chapter is designed to maintain the efficiency of the pedestrian path.

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-2. Definitions.**

(a) *Sidewalk cafe.* The term "sidewalk cafe" shall mean the location and use of tables and chairs on the public sidewalk and operated as an extension of a licensed food or beverage establishment in Downtown Athens District and which sidewalk cafe shall be an incidental activity of the establishment.

(b) *College Square.* The term "College Square" shall mean that portion of College Avenue between East Broad Street and East Clayton Street, including all public rights-of-way within such area.

(c) *Manager.* The term "manager" shall mean the Manager of Athens-Clarke County, Georgia, or his designee.

(d) *Common area sidewalk cafe.* The term "common area sidewalk cafe" shall mean the

location and use of tables and chairs in the paved brick areas of College Square which are not abutting the fronts of businesses.

(e) *Permittee*. The term "permittee" shall mean the recipient of a sidewalk cafe permit under the terms and provisions of this chapter.

(f) *Downtown Athens District*. The term "Downtown Athens District" or "district" shall mean that area of Athens-Clarke County, Georgia, defined as "the Downtown Athens Area" as set forth in Section 2 of Georgia Laws 1977, page 3533, pages 3534--3535 (entitled "Downtown Athens Development Authority Created").

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-3. Permit.**

It shall be unlawful for any person to operate a sidewalk cafe in the Downtown Athens District without a permit issued by the manager, or to fail to comply with all sections of the sidewalk cafe ordinance. Such permit shall be renewed annually at a time to be designated by the manager.

The issuance of a sidewalk cafe permit shall not be construed or interpreted to convey any property rights or any leaseholder rights to any person or business. The provisions of this chapter are subject to change and amendment by the mayor and commission from time to time.

Sidewalk cafe permits are non-transferable. Permits will expire upon transfer of ownership, change in use of facility, and December 31 of each year.

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-4. Application.**

Any person desiring to operate a sidewalk cafe shall submit an application, on a form prescribed by the manager, to the central services department. The application shall include, but not be limited to, the following:

- (1) Name of applicant;
- (2) Name, address, and telephone number of restaurant;
- (3) A copy of a valid Athens-Clarke County occupational license to operate a business in front of which the sidewalk cafe will be located;
- (4) A copy of a current certificate of insurance in the amounts and categories required by section 6-10-9 of this chapter;
- (5) A sketch identifying the perimeter area, the dimensions of area, the dimensions from perimeter to curb or nearest obstacle, and the design and materials of the required cafe railing system.

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-5. Issuance of permit.**

Applicant shall be notified within two weeks of application submission of approval/denial of permit. If permit is denied, applicant shall be provided an explanation of the denial.

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-6. Permit fee.**

The annual permit fee to operate a sidewalk cafe shall be \$100.00 plus \$1.00 per square foot for the approved/permitted area.

Prior to issuance or renewal of a sidewalk cafe permit, the government's finance department shall verify that there are no outstanding occupational tax or alcohol license fees owed to the

government by the person or entity requesting a sidewalk cafe permit. A sidewalk cafe permit will not be issued until all outstanding debts to Athens-Clarke County Government are paid in full.

(Ord. of 11-4-2003, § 1)

### **Sec. 6-10-7. Regulations generally.**

Except as otherwise provided in section 6-10-8 herein, a sidewalk cafe operating in the Downtown Athens District shall comply with the following regulations:

(1) *Limitations on area.* The area in which a sidewalk cafe is operated shall abut the outside front wall of the restaurant of which it is an extension and shall not extend parallel in either direction beyond the outside front wall of the restaurant. The area permitted for a sidewalk cafe shall not extend more than five feet perpendicular from the outside wall of the restaurant; however, a minimum of five feet shall be provided at all times for continuous unobstructed pedestrian traffic on the sidewalk between the sidewalk cafe area and the curb or nearest obstacle.

(2) *Divider required.* The area permitted for a sidewalk cafe shall be separated from the remaining sidewalk area by a system of connected metal rails and posts that would serve to contain crowds and maintain the boundaries of the cafe. The system shall be designed and constructed such that it resists movement and can be disassembled and removed if necessary. The design must be included in the application and must be approved by the manager prior to issuance of a permit. Such divider shall not be less than three feet nor more than four feet in height. All tables and chairs shall be located totally within the limits of the divider. It shall be the responsibility of the permittee to maintain the divider in its exact/approved location at all times.

(3) *Sanitation.* It shall be the responsibility and duty of the restaurant to which the sidewalk cafe permit is issued to maintain the area covered by the permit in a clean, neat, and orderly manner at all times. The area shall be cleared of all debris at all times. It shall also be the responsibility of the permit holder to pressure wash the sidewalk surface on which the sidewalk cafe is located no less often than once every three months. Permittee shall sweep the sidewalk and collect the debris prior to pressure washing and shall maintain records of date sidewalk was pressure washed and by whom, and such records shall be open to inspection by the Athens-Clarke County Government. Pressure washing by permittee shall be conducted using water only. The use of cleaning agents is prohibited. All tables and chairs are to be kept clean, sanitary, safe, and in structurally sound condition at all times.

(4) *Removal of furnishings.* All tables, chairs, and dividers of a sidewalk cafe shall be removed from the public sidewalk area as notified by the solid waste department for sidewalk cleaning.

(5) *Suspension or modification of operation.* The manager shall have the authority to require any sidewalk cafe operating in an area created by this section to suspend operation and clear such area, or to move or modify the location or operation of the sidewalk cafe, for things such as, but not limited to:

- a. Any permitted special event;
- b. Any street, sidewalk, or utility construction;
- c. Any emergency situations; or
- d. The protection of the health, safety, and welfare of the public.

(6) ACC Code section 6-3-8(f) exempts sidewalk cafes licensed to sell alcoholic beverages from the restrictions on open containers if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in Athens-Clarke County.

(7) ACC Code section 3-12-23 prohibits the possession of any open glass container for the consumption of any beverage on the public sidewalks within Athens-Clarke County.

(8) Alcoholic beverages are prohibited in the common area sidewalk cafe areas.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-8. Sidewalk cafes on College Square.**

Sidewalk cafes on College Square are exempt from section 6-10-7(2), which requires the installation of cafe dividers. In addition to all other provisions applicable to sidewalk cafes as provided for in section 6-10-7 herein, the following additional provisions shall apply to sidewalk cafes permitted on College Square:

(1) Sidewalk cafe areas may be provided within the paved brick areas at the four corners of College Square located on either side of College Avenue at its intersection with East Clayton Street and with East Broad Street.

(2) Sidewalk cafe areas may be designated in the six paved brick areas between the large concrete planters on either side of College Square parallel to the public concrete sidewalk and extending no more than five feet into the adjoining paved brick areas.

(3) The outer limits of each such area provided for in paragraphs (1) and (2) above shall be clearly marked as prescribed by the manager. Tables and chairs shall not extend beyond such limits. A minimum of two feet of unobstructed space shall be maintained at all times around any permanent public fixture within or adjacent to the designated area.

(4) Any eligible establishment fronting on College Square and located at any corner of College Square shall be granted the right of first refusal to operate a common area sidewalk cafe that fronts their business. Upon any such refusal, the immediately adjacent eligible businesses shall have the next right of refusal on a first come first served basis, if such business has a permit to operate a sidewalk cafe adjacent to their own business.

(5) Each table may be equipped with an umbrella that, when open, shall extend to at least the same diameter as the table it serves and shall be anchored with a weighted base. Any umbrella protruding into public space shall be positioned at a minimum height of seven feet. An umbrella may display the name or logo of the restaurant operating the sidewalk cafe and/or advertise a product. Each umbrella shall be maintained in good, clean, and operable condition.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-9. Liability and insurance.**

(a) Except for actions arising out of Athens-Clarke County's sole negligence, the permittee agrees to indemnify, defend, save, and hold harmless the Athens-Clarke County Government, its officers and employees, from any and all claims, liability, damages, and causes of action which may arise out of the permit or the permittee's activity on the premises.

(b) The permittee agrees to meet and maintain for the entire permit period, at its own expense, the following requirements:

(1) Commercial general liability in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. The Athens-Clarke County Government must be named as an additional insured on this policy, and an endorsement must be issued as part of the policy reflecting compliance with this requirement.

(2) The Athens-Clarke County Government must receive 30 days written notice prior to any cancellation, non-renewal, or material change in the coverage provided.

- (3) The permittee must provide an original certificate of insurance as evidence that the above requirements have been met prior to issuance of a permit.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-10. Revocation or suspension of permit.**

The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended by the administrative hearing officer pursuant to the provisions of section 1-5-1 if it is found that:

- (1) Any necessary business or health permit has been suspended, revoked, or cancelled.
- (2) The permittee does not have insurance which is correct and effective in the minimum amounts described in section 6-10-9.
- (3) The permittee has failed to correct violations of this chapter or any other ordinance within 48 hours of receipt of the manager's notice of same delivered in writing to the permittee.
- (4) The permittee has a history of violations of this chapter of three or more within a two-year period, or immediately upon any violation depending upon severity of the violation.
- (5) Permits may be suspended for a period up to 12 months depending upon history and severity of violations.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-11. Fines for violators.**

The following minimum fines shall be imposed for violations of this chapter:

- (1) First citation: \$100.00 fine.
- (2) Second citation (within one-year period): \$250.00 fine.
- (3) Third citation (within one-year period): \$500.00 fine.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-12. Americans with Disabilities Act.**

Any person or entity receiving a permit hereunder agrees to fully comply with all requirements of the Americans with Disabilities Act as currently existing or as may be hereafter amended.

(Ord. of 11-4-2003, § 1)

#### **Sec. 6-10-13. Severability of part of Code.**

It is hereby declared to be the intention of the mayor and commission that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this chapter, since the same would have been enacted by the mayor and commission without the incorporation in this chapter of any such invalid phrase, clause, sentence, paragraph, or section.

(Ord. of 11-4-2003, § 1)