

OFFICE OF THE MANAGING DIRECTOR REGULATION ON THE OPERATION OF TEMPORARY SIDEWALK CAFÉS AND STREETERIES DURING THE COVID-19 EMERGENCY

Bill No. 200351 (approved August 24, 2020) permits the temporary licensing and expansion of Sidewalk Cafés through December 31, 2020 due to the COVID-19 emergency. Bill No. 200352 (approved June 26, 2020) permits partial or total street closures for the expansion of businesses that cannot operate indoors, due to the COVID-19 emergency, through December 31, 2020. To implement these ordinances, the Office of the Managing Director hereby adopts the following regulation regarding the granting of Temporary Sidewalk Café licenses and the granting of temporary “Streeteries” licenses.

Section 1. Definitions.

- A. Abut – To touch or share a contiguous boundary or border. Properties that are separated by a street, alley, shared driveway are not abutting.
- B. Adjoin – To lie next to or to be in contact with. If there is a bicycle lane or similar separation between the parking lane and the sidewalk, the two do not adjoin.
- C. Extension – Expansion of a Sidewalk Café or Streeteries to a property abutting a property where a Sidewalk Café (regular or temporary) or Streeteries is licensed.
- D. Neighborhood Group – A Registered Community Organization as defined by 14-203(259).
- E. Prohibited Street – Any street upon the City Right-of-Way that is designated by the Streets Department (“Streets”) as ineligible for a Streeteries.
- F. Right-of-Way – Right of Way shall have the meaning provided by Section 11-701(dd) of the Philadelphia Code.
- G. Sidewalk Café – An open-air space on the public sidewalk directly abutting a restaurant where food is served at tables and chairs.
- H. Sidewalk Café License – A license to operate a Sidewalk Café issued pursuant to Section 9-208 of the Philadelphia Code.
- I. Streeteries – A street-level or platform area that occupies one or more spaces in a parking lane adjoining to the sidewalk abutting a restaurant used to provide outdoor dining space for the restaurant and is licensed pursuant to these regulations including through the grandfathering provision of these regulations.

- J. Temporary Sidewalk Café – a sidewalk café that is licensed pursuant to these regulations, including through the grandfathering provision of these regulations.

Section 2. Applicability. Any registration issued prior to the promulgation of these regulations shall be automatically converted to a license under and subject to these regulations.

Section 3. Application Requirements. To receive a license for a Temporary Sidewalk Café, Streeter, and/or an Extension, the following must be submitted to the Department of Licenses and Inspections (L&I):

- A. Application. All applications must be submitted using the official application form. The application for a Temporary Sidewalk Café License, an Extension, and/or a Streeter is a combined application form. The application materials required and application process may differ, however, based on what is being sought. All applications must be submitted to L&I through the eClipse system at eclipse.phila.gov or at the Permit and License Center using the official application form. The application requires the applicant attest to an understanding of the operational requirements contained in these regulations and all applicable Philadelphia Code sections and governmental orders.
- B. Application Materials.
- a. *Temporary Sidewalk Café License*:
 - i. The application form;
 - ii. A valid Food Preparing and Serving license for the business location; and
 - iii. Proof of a general insurance policy with at least \$1 million coverage minimum.
 - b. *Streeter*:
 - i. The application form;
 - ii. A valid Food Preparing and Serving license for the business location;
 - iii. Proof of a general insurance policy with at least \$1 million coverage minimum; and
 - iv. Platform construction plan, if applicable.
 - c. *Extension*:
 - i. The application form;
 - ii. A valid Food Preparing and Serving license for the business location;
 - iii. Proof of a general insurance policy with at least \$1 million coverage minimum; and
 - iv. An Owner's Authorization form for each property for which the extension is sought.
- C. Application Standards and Review.
- a. *Temporary Sidewalk Café*

- i. For Sidewalk Cafés, the sidewalk adjacent to the food establishment must be a minimum of 10 feet wide.
- ii. L&I will daily transmit a list of applications received to City Council offices and the Registered Community Organization (“RCO”) distribution list.
- iii. The District Council member representing the District of the applicant and any RCO covering the location of the application may submit a Statement of Community Concern to L&I.
- iv. All statements must be on the form provided by L&I and should be returned via email within one business day.
- v. Concerns shall be limited to those impacting health, safety, or quality of life of the surrounding community, including complaints regarding noise, litter, and building safety.
- vi. If a Statement of Community Concern is received, L&I will review 3-1-1 and L&I Nuisance Business Units records for the last two years. If the records indicate substantial complaints or violations related to the expressed concerns, the license will be denied.
- vii. If no Statement of Community Concern is timely received or the stated concerns are not substantiated based on the record review, the application form is complete, all application materials are properly provided and show compliance with all applicable requirements of these regulations, and no additional information is required, L&I will issue the license.

b. *Streeterly*

- i. Upon receipt of the application, L&I will do a completeness review.
- ii. A Streeterly may only be installed in a parking lane with a minimum width of seven (7) feet.
- iii. A Streeterly may not be installed on any street designated as a “Prohibited Street.”
- iv. A Streeterly may only be installed on a State or Federal route where the proposed Streeterly complies with these regulations and where the Pennsylvania Department of Transportation (“PennDOT”) has delegated authority to the City to permit such activity on the street identified.
- v. If the application seeks a Streeterly with platform construction or the frontage is located on a federal route, state route, or a route designated for detailed review on the Streeterly Review map, the application will be referred to Streets for additional review.
- vi. Additional review will be conducted by Streets, which will determine whether to approve or deny the license. No Streeterly shall be approved as-of-right.
 - 1. Platform construction will be approved where the spacing requirements are met and the proposed structure of the

platform is structurally sound and crashworthy to the satisfaction of Streets.

- a. The platform should be no more than 6 inches from grade. If there is a built-in guardrail, the platform structure may be no more than 48 inches from grade.
 - b. Pursuant to the Americans With Disabilities Act (“ADA”), egress, ingress and pedestrian space must be at least 36 inches in width. Any ramp up or down into the Streeterly shall have a maximum rise of 30 inches.
2. Additional review will also consider obstacles that may require additional measures or design changes for safety purposes, and the free-flow of traffic in travel lanes.

c. *Extension*

- i. Permission for operation of an extension of Sidewalk Café or Streeterly may be obtained only in connection with a licensed operation of a Sidewalk Café, Temporary Sidewalk Café, or Streeterly. Extensions follow the same application review path as the use in connection with which the extension is sought. An extension shall be permitted upon written proof of authorization from the owner or legal occupant of the property to be used for the extension. An extension may be authorized only for properties with frontage that directly abuts the frontage of the food establishment and such extension may occupy the sidewalk of no more than two properties abutting the licensed property.

D. Application Approval. An application which seeks approval for more than one operational activity/use may be denied in whole or in part; the decision notice issued by the City will indicate which activity(ies)/uses are approved.

E. Appeals. The decision to approve or deny a license may be appealed to the Board of Licenses and Inspections within 30 days of the decision in accordance with A-800, *et seq.*, of The Philadelphia Code.

- a. If a license was granted, the food establishment may continue to operate pursuant to the license while the appeal is pending.
- b. If a license is denied, the food establishment may not conduct any unlicensed or unpermitted outdoor dining activities.

F. License Amendment. Only one license will be issued per establishment. However, each license can permit a Temporary Sidewalk Café, Extension, and Streeterly if the use is applied for and all requirements are met. If an establishment already has a license and wants to extend the permissible uses beyond the use(s) currently approved, then a license amendment must be applied for. The amendment will require filling out the additional sections of the application form and submitting any

additional application materials for the new use or extension being sought. The review and approval process will be the same as if it was an original application.

Section 4. Operating Requirements.

- A. General Requirement. No Temporary Sidewalk Café, Streeterly, or Extension may operate without a license issued under these regulations. All food establishments with a temporary sidewalk café license must adhere to all provisions of The Philadelphia Code applicable to sidewalk cafés. All activities licensed pursuant to these regulations must adhere to all applicable provisions of The Philadelphia Code, any other applicable City regulations, and all business activity, health, and/or safety order requirements issued by the Mayor, Health Commissioner, and/or the Board of Health and/or the Commonwealth.
- B. Posting of the License. A copy of the license shall be posted at the establishment in a conspicuous place so that it is clearly visible to the public from the exterior and shall be readily available for inspection by the City.
- C. Time of Operation. Temporary Sidewalk Cafés, Streeteries, and any extension may only operate Monday through Sunday between 8 a.m. and 12 a.m. the following day. Last call for all dining orders will be at 11 p.m. and establishments will be required to be closed for service by midnight. All patrons must be vacated by no later than 12:30 a.m. All other laws and regulations apply. Nothing in this regulation shall restrict hours of operation for otherwise permitted operations.
- D. Extension. Use of the extension is subject to all the requirements of this regulation pertaining to the underlying operation (sidewalk café or streeterly), including but not limited to degree of occupation of the sidewalk, hours of operation and all applicable health and safety requirements
 - 1. A Streeterly must be protected from a travel lane for bicycles or motor vehicles with approved barriers.
 - i. Approved barriers include: Water Filled Trash Can Barriers (including water-filled trash cans with a minimum capacity of 50 gallons), Construction Barrels, Gates, Cones (min 36 inches high), Sawhorses, and Jersey Barriers.
- E. General Operations:
 - 1. Seating capacity of interior and exterior dining combined may not exceed the capacity of the existing business.
 - 2. Access to bathrooms and hand washing facilities must be provided.
 - 3. Each lot is permitted to have one portable accessory sign not to exceed 10 sq. feet in area and not to exceed 5 feet in height.

4. No heating, cooking, fire pits, or open flames are permitted except as follows:
 - i. Heaters approved for outdoor use, installed in accordance with manufacture's installation instructions and in compliance with Section F-307 of the Philadelphia Fire Code, may be used so long as there is a minimum of 2 feet distance from umbrellas, awnings, trees, and other flammable materials.
5. No food preparation, plastic food displays, food storage, or refrigeration apparatus shall be permitted in the public right-of-way.
6. Trash storage must comply with Section PM-308 of the Philadelphia Code; if a dumpster is utilized, a dumpster license is required.
7. Adequate lighting is required at night. The food establishment and adjacent Right-of-Way must be illuminated to allow clear passage within and through the sidewalk areas, and oriented to prevent glare on surrounding areas.
8. A Streeterly must be posted by the license holder with temporary No Parking signs provided by the City.

F. Space Requirements:

1. A clear path of pedestrian travel at least 6 feet wide must be maintained, except pre-existing constraints between fixed objects. The pedestrian path shall be ADA accessible.
2. Tables and chairs may not protrude into a travel lane for bicycles or motor vehicles.
3. Tables and chairs may not obstruct pedestrian crosswalks or driveways.
4. No table may obstruct a building entrance.
5. No furniture, including tables and chairs, may be placed within 6 feet of a crosswalk, corner curb cut, or large street furniture, which include but not limited to a bus stop shelter, newsstand or bike share kiosk.
6. All tables must be at least 10 feet from a fire hydrant.
7. No furniture or apparatus may be placed within 40 inches of a Fire Department connection.
8. All table must be at least 2 feet from cellar doors.

9. All tables must be at least 15 feet from a transit stop.
10. The spacing of all tables and chairs must comply with current Philadelphia Department of Public Health guidelines on safe operations.

G. Furniture Operations:

1. Tables, chairs, umbrellas, and other moveable furniture must be placed indoors or secured to the ground during non-operating hours.
2. Moveable furniture must be labeled with the food establishment/business name in a place where it is easily readable/identifiable.
3. Umbrellas shall be of fire-retardant material and canopy shall be a max of 6 feet in diameter and set up a min of 80 inches above grade.
4. Planters or other furniture demarcating the boundaries of the Sidewalk Café and the cartway may not be affixed to the public right of way or unreasonably impede the flow of pedestrian traffic.

H. Emergency Health and Safety Operating Requirements. Holders of a Temporary Sidewalk Café/Streeterly license, including extensions, must keep themselves apprised of and follow all emergency health orders from the City of Philadelphia related to business operations and the COVID-19 emergency, including occupancy limits for outdoor gatherings, and all applicable guidance incorporated and referenced therein. Ongoing compliance with such requirements shall be a condition of ongoing maintenance of the license and repeat violations shall result in license revocation.

Section 5. Penalties. Failure to follow any of the requirements of this regulation shall constitute a violation of the Philadelphia Code and may lead to fines as set forth in law, a cease operations order, revocation of the Temporary Sidewalk Café and/or Streeterly license, and any other remedy available at law.