

VILLAGE OF WILMETTE

Outdoor Restaurant Seating License

Informational Materials Enclosed

Summary of Program & Requirements

Ordinance 95-0-58

Application Form

Indemnification Agreement

Outdoor Restaurant Seating License

Summary of Program & Requirements

I. Introduction

The Village of Wilmette has adopted Ordinance No. 95-0-58, which is designed to encourage outdoor restaurant seating by providing a more efficient and convenient process for obtaining approval for outdoor seating.

Previously, a restaurant operator who wished to provide outdoor seating was required to apply for and obtain a “special use permit” under the terms of the Village’s Zoning Ordinance. Those wishing to use sidewalks for outdoor seating were also required to obtain a separate variation under the Zoning Ordinance. Individual ordinances establishing each special use and variation then had to be adopted by the Village Board of Trustees.

The Village’s new procedure will now permit restaurant operators to obtain a “license” for outdoor seating, which will be issued after an administrative review of a license application. This new procedure will normally be concluded within fifteen days of the submission of a completed application. It will provide a more streamlined and efficient method of examining and permitting outdoor seating, and will do so at a reduced cost to the restaurant operator.

If, after reviewing these materials, you have any questions or need any assistance, please contact the Department of Community Development of the Village of Wilmette (847) 853-7528.

II. Application Requirements for Outdoor Restaurant Seating Licenses

The Village’s Site Plan Review Committee will review applications for outdoor restaurant seating licenses. The Committee will examine each application to make sure the outdoor seating area complies with the requirements of the Village’s ordinance, and will work with the applicant to make any needed alterations. Site Plan review is normally completed within fifteen days of the submission of a completed application. In order to facilitate this process, it is important that the application be complete and contain all the required information.

Restaurants that have already established outdoor seating by virtue of an ordinance granting them a special use permit or variations to do so will continue to be governed by the terms of those special zoning ordinances and will not be required to obtain an outdoor seating license.

Outdoor restaurant seating licenses are available only to restaurant businesses that hold a valid Village food handler license. The applicant must submit to the Department of Community Development the following materials:

- (1) A completed license application form.
- (2) The applicable license fee.

- (3) A copy of the applicant's current Village food handler license.
- (4) A copy (if applicable) of the applicant's current Village liquor license.
- (5) A detailed "site plan" drawing to scale of the proposed site indicating the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas, or other facilities to be included in the outdoor seating area, which will be reviewed by the Village's Site Plan Review Committee.

III. Special Application Requirements for Licenses Permitting the Use of the Public Sidewalk

If the outdoor seating area is proposed to be located on a Village sidewalk or other public right-of-way the application must also include the following:

- (1) Proof of insurance, including general liability insurance, workers compensation insurance, and, if applicable, dram shop insurance, from a rated insurance company in an amount approved by the Village's insurance carrier.
- (2) A signed indemnification agreement with the Village.
- (3) The "site plan" drawing must also include the location of existing public improvements, such as fire hydrants, street signs, street lights, traffic signals, bus shelters, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions, and the like.

IV. Operating Requirements for the Operation of Outdoor Restaurant Seating Areas

- (1) The licensee must comply with all applicable federal, state, and village health and sanitation laws and regulations, and operation of the outdoor restaurant seating area shall not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity.
- (2) No outdoor keeping or storage of food or beverages to be served is permitted. No open keeping or storage of used dishes, utensils or food scraps is permitted. Self-closing outside trash containers must be provided as required by the Village Sanitarian.
- (3) Operation of outdoor restaurant seating areas is permitted only when the main place of business is open, and not before 6:00 a.m. or after 11:00 p.m.
- (4) Doors from the restaurant to the outdoor seating area must be self-closing.

- (5) No animals, except those assisting the disabled, are allowed in the outdoor seating area.
- (6) The sale and consumption of alcoholic beverages in the outdoor seating area will be restricted by the liquor license governing the restaurant. An outdoor seating area where alcoholic beverages are sold or consumed must be enclosed by a border and supervised at all times by a restaurant employee. No alcoholic beverages may be removed from the outdoor seating area.
- (7) The outdoor seating area must be accessible to the disabled, and the licensee must at all times comply with all applicable federal, state and village laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of services.
- (8) The outdoor seating area cannot obstruct any fire exit, fire escape, or other required ingress or egress.

V. Special Operating Requirements for Outdoor Restaurant Seating Areas on Village Sidewalks

In addition to these general requirements which are applicable to all outdoor restaurant seating areas, there are some additional requirements for those which are to be located on public property, such as a sidewalk or right-of-way:

- (1) The use of public sidewalks or right-of-way for outdoor restaurant seating is only permitted when incidental to the operation of a licensed restaurant on private contiguous property and only along the frontage of the restaurant.
- (2) The operation of the outdoor restaurant seating area cannot interfere with the passage of pedestrian or vehicular traffic, or reduce the open portion of the public sidewalk to less than five (5) feet clear of all obstructions, measured from edge of the sidewalk closest to the curb (or lampposts or parking meters where such exist).
- (3) The placement of furnishings for the outdoor seating area and its operation cannot obstruct access to public property such as taxi stands, bus stops, crosswalks, mailboxes, curb cuts, or parking spaces, or obstruct necessary access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign.
- (4) The licensee will be responsible for the maintenance and upkeep of the public right-of-way used for the outdoor restaurant seating area and the replacement of damaged public property, including brick pavers. No furniture or furnishings may be attached by any means to the public sidewalk or any other public property.

- (5) In the event of snowfall or when notified by the Village to do so, the licensee will promptly remove all furnishings and obstructions from the sidewalk, so as to allow snow removal, to accommodate special events permitted by the Village, or to accommodate Village repair or maintenance of the sidewalk.
- (6) No electrical appliances or conductors, open flame devices, spillable petroleum products or other flammable liquids (other than candles or lanterns of a type approved by the Site Plan Review Committee) may be placed or kept in the outdoor seating area.
- (7) All furnishings and obstructions must be removed from the public sidewalk or right-of-way from November 1 each year through and including April 30.

VI. License Fee and Term

Outdoor restaurant seating licenses are issued for a term of one year, and can be renewed annually. The license fees are \$25 for seating areas not located on public property and \$50 for seating areas located on public property.

IDEMNIFICATION

WHEREAS, the undersigned desires to maintain an outdoor restaurant seating area on a portion of the public sidewalk in the Village of Wilmette;

WHEREAS, the Village of Wilmette is willing to permit the undersigned to maintain such an area, provided that the Village will not thereby incur the risk of any liabilities to the undersigned, or to any third party or employee of the undersigned, by virtue of the presence or actions of the undersigned;

NOW, THEREFORE, the undersigned agrees to indemnify, defend and hold harmless the Village of Wilmette, its officers, employees and agents against any and all loss, liability, damage, claims, costs and expenses, including attorney's fees which it may hereafter suffer, incur, be put to or pay out as a result of the undersigned's operation of the restaurant outdoor seating area and the undersigned shall at his or her own expense, appear defend and pay all fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the Village in any such action, the undersigned shall satisfy and discharge the same excluding only such claims, demands or losses, which result from the sole negligence of the Village of Wilmette or its officers, agents or employees.

Signed at _____ Illinois, this ____ day of _____, 20____

WITNESS:

Signature

Name (Please Print)

Title

Address

City, State, Zip

AN ORDINANCE AMENDING THE WILMETTE VILLAGE CODE, 1967, AS AMENDED, AMENDING CHAPTER 5, -REGULATION OF CERTAIN COMMERCIAL AND QUASI-COMMERCIAL ACTIVITIES, AND CHAPTER 20, ZONING ORDINANCE, TO PROVIDE FOR LICENSING OF OUTDOOR SEATING BY RESTAURANTS

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Wilmette, Cook County, Illinois:

SECTION 1: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 7, “NR” Neighborhood Retail Business District, Section 20-5.7.3, Special Uses, by deleting Section 20-5.7.3(t)(2) and renumbering Sections 20-5.7.3(t)(3), 20-5.7.3(t)(4) and 20-5.7.3(t)(5) to Sections 20-5.7.3(t)(2), 20-5.7.3(t)(3) and 20- 5.7.3(t)(4), respectively.

SECTION 2: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 8, “VC” Village Center Business District, Section 20-5.8.3, Special Uses, by deleting Section 20-5.8.3(bb)(3) and renumbering Section 20-5.8.3(bb)(4) to Section 20-5.8.3(bb)(3).

SECTION 3: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 9, “GC-1” General Commercial District, Section 20-5.9.3, Special Uses, by deleting Section 20-5.9.3(s)(3) and renumbering Section 20-.9.3(s)(4) to Section 20-5.9.3(s)(3).

SECTION 4: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 11, “PCD-1” Planned Commercial Development District, Section 20-5.11.3, Special Uses, by deleting Section 20-5.11.3(g)(3) and renumbering Section 20-5.11.3(g)(4) to Section 20-5.11.3(g) (3).

SECTION 5: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 12, “PCD-2” Planned Commercial Development District, Section 20-5.12.3, Special Uses, by deleting Section 20-5.12.3(k) (2) and renumbering Section 20-5.12.3(k)(3) to Section 20-5.12.3(k)(2).

SECTION 6: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 13, “PCD-3” Planned Commercial Development District, Section 20-5.13.3, Special Uses, by deleting Section 20-5.13.3(i)(2) and renumbering Section 20-5.13.3(i)(3) to Section 20-5.13.3(i)(2).

SECTION 7: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 6, Development Standards of General Applicability, Part 4, Accessory Uses and Structures, Section 20-6.4.18, “Outdoor Seating for Restaurants and Fast-Food Restaurants,” is deleted in its entirety and the following .new text is substituted therefor:

Section 20-6.4.18 Outdoor seating for restaurants and fast-food restaurants

- (a) Outdoor seating accessory to a restaurant or fast-food restaurant, where the restaurant or fast-food restaurant is a permitted use or a lawfully established special use, shall be treated as a permitted accessory use, where operated with a valid license required by Chapter 5 of the Wilmette Village Code. In addition, all such outdoor seating shall meet the following standards:
 - (1) The seating shall not be located on public property or a public right-of-way unless a valid license to do so has been obtained from the Village pursuant to Chapter 5 of the Wilmette Village Code.
 - (2) The seating shall not occupy or interfere with the use of required parking spaces and aisles; and,
 - (3) The seating shall not be located in a required yard abutting a residential district; and,
- (b) Picnic tables located at a park, golf course or recreation center shall not be deemed “outdoor seating” subject to (a) above.

SECTION 8: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 5, Zoning Districts, Part 1, Establishment of Zoning districts and Allowable Uses, Table 5.1.2, by striking the references to Outdoor restaurant seating as a special use in the NR, VC, GC-1, PCD-1, PCD-2 and PCD3 Zoning Districts and substituting therefor the appropriate symbol to indicate that outdoor restaurant seating is a permitted accessory use in the NR, VC, GC-1, PCD-1, PCD-2 and PCD-3 Zoning Districts.

SECTION 9: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 20, Zoning Ordinance, Article 6, Development Standards of General Applicability, Part 2, Off-Street Parking and Loading; Driveways, Table 6.2.2, by inserting in said table where the entry, “Restaurants - 1 per 3 seats,” occurs, the additional text, “excepting outdoor seating areas.”

SECTION 10: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 16, Public Ways, Section 16-9.1, “Encroachments Upon Streets,” by adding the text, “except as may be permitted by license pursuant to Chapter 5 of this code,” to the end of said Section 16-9.1.

SECTION 11: The Wilmette Village Code, 1967, as amended, is further amended in Chapter 5, Regulation of Certain Commercial and Quasi-Commercial Activities, by adding a new Section 5-2.6, Outdoor Restaurant Seating License, to read as follows:

5-2.6 **OUTDOOR RESTAURANT SEATING LICENSE.**

No person or entity shall operate a restaurant or fast-food restaurant, as those terms are defined in the Zoning Ordinance, which provides outdoor seating for the purpose of serving food or beverages to customers, without a valid outdoor restaurant seating license. Said license shall be in addition to any other license required by this Chapter, including a food handler license.

A person or entity lawfully operating a restaurant with outdoor seating pursuant to a special use or variation adopted by ordinance by the village prior to July 1, 1995, shall be bound by the terms of that ordinance and shall not be required to obtain a license under this Section.

5-2.6.1 **ELIGIBILITY; APPLICATION FOR LICENSE.**

An outdoor restaurant seating license shall be granted only to the operator of a restaurant or fast-food restaurant which is in conformance with Section 20-6.4.18 of the Zoning Ordinance and which holds a valid food handler license as provided in this Chapter. An application for an outdoor restaurant seating license shall be on a form provided by the Director of Community Development and shall provide each of the following:

- (a) The name and mailing address of the applicant.
- (b) A detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas, or other facilities to be included in the outdoor seating area. If the outdoor seating area is proposed to be located on a Village sidewalk or other public right-of-way, the drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, traffic signals, bus shelters, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions, and any other public obstruction.
- (c) A copy of a valid food handler license.
- (d) The annual license fee.

5-2.6.2.1 ADMINISTRATIVE REVIEW.

When the Director of Community Development determines that the application is complete, the application shall be reviewed by the Site Plan Review Committee, who shall determine whether it is in conformance with the requirements of this Section, and shall require of the applicant such changes to the application and plan as may be necessary to ensure compliance with the requirements of this Section. Upon being advised of the satisfactory completion of this review, the Director of Finance shall issue the outdoor restaurant seating license.

5-2.6.3 LICENSE REQUIREMENTS.

Issuance and continued enjoyment of the outdoor restaurant seating license shall be conditioned on the following:

- (a) The licensee shall comply with all applicable federal, state, and village health and sanitation laws and regulations, and operation of the outdoor restaurant seating area shall not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity.
- (b) No outdoor keeping or storage of food or beverages to be served shall be permitted. No open keeping or storage of used dishes, utensils or food scraps shall be permitted. Self-closing outside trash containers shall be provided as required by the Village Sanitarian.
- (c) Operation of outdoor restaurant seating areas shall be permitted only at such times as the main place of business is open, and in no event before 6:00 a.m. or after 11:00 p.m.
- (d) Doors from the main restaurant to the outdoor restaurant seating area shall be self-closing.
- (e) No animals, except those assisting the disabled, shall be allowed in the outdoor restaurant seating area.
- (f) The sale and consumption of alcoholic beverages in the outdoor seating area shall be restricted by the liquor license governing the restaurant. Any outdoor seating area where alcoholic beverages are sold or consumed shall be enclosed by a border and shall be supervised at all times by an employee of the restaurant. No alcoholic beverages may be removed from the outdoor seating area, except to the interior of the restaurant.
- (g) The outdoor seating area shall be accessible to the disabled, and the licensee shall at all times comply with all applicable federal, state and village laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of services.
- (h) The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.

5-2.6.4.1 ADDITIONAL REQUIREMENTS FOR OUTDOOR RESTAURANT SEATING AREAS LOCATED ON PUBLIC SIDEWALKS OR THE PUBLIC RIGHT-OF-WAY.

In addition to the requirements set forth in Section 5-2.6.3, issuance and continued enjoyment of the outdoor restaurant seating license, where the seating will be located on a public sidewalk or right-of-way, shall be conditioned on the following:

- (a) The use of public sidewalks or right-of-way for outdoor restaurant seating shall be permitted only when incidental to the operation of a licensed restaurant or fast-food restaurant on private contiguous property and only along the frontage of said restaurant.
- (b) The licensee shall provide the village, in a form acceptable to the Corporation Counsel, the following:
 - (1) An agreement to indemnify, defend, and hold harmless the village for any and all claims for liability or damages arising from the operation of the outdoor restaurant seating area; and,
 - (2) A certificate of general liability insurance, workers compensation insurance, and, if applicable, dram shop insurance. The amount of required coverage shall be approved by the village's insurance carrier, but in no event shall liability coverage be in an amount less than \$1,000,000 per occurrence and \$500,000 per person. The village shall be named as an additional insured on the face of the certificate, and the insurer shall have no less than an "A" rating by the most recent AM Best Insurance Rating Guide.
- (c) In no event shall the operation of the outdoor restaurant seating area interfere with the passage of pedestrian or vehicular traffic, or reduce the open portion of the public sidewalk to less than five (5) feet clear of all obstructions, measured from edge of the sidewalk closest to the curb (or lampposts or parking meters where such exist).
- (d) In no event shall the placement of furnishings for the outdoor restaurant seating area or the operation of the outdoor restaurant seating area obstruct access to any taxi stand, bus stop, crosswalk, mailbox, curb cut, parking space or any other public property, or obstruct necessary access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign.
- (e) The licensee shall be responsible for the maintenance and upkeep of the public right-of-way used for the outdoor restaurant seating area and the replacement of damaged public property, including brick pavers. No furniture or furnishings may be attached by any means to the public sidewalk or any other public property.
- (f) In the event of snowfall or when notified by the village to do so, the licensee shall promptly remove all furnishings and obstructions from the public sidewalk or right-of-way, so as to allow snow removal, to accommodate special events permitted by the village or to accommodate village repair or maintenance of the public sidewalk or right-of-way.

- (g) No electrical appliances or conductors, open flame devices, spillable petroleum products or other flammable liquids, other than candles or lanterns of a type approved by the Site Plan Review Committee, shall be placed or kept in the outdoor seating area.
- (h) No furnishings and obstructions shall be permitted on the public sidewalk or right-of-way from November 1 each year through and including April 30 of the succeeding year.

5-2.6.5 TERM OF LICENSE; RENEWAL; REVOCATION; TERMINATION.

- (a) Each outdoor restaurant seating license shall be valid for a terms of one (1) year, and may be renewed annually thereafter. A renewal application shall provide all the same information as an original application, but copies of the previous year's site plan may be used if there are no changes from the last submission.
- (b) Outdoor restaurant seating licenses may be suspended or revoked by the Village Manager as provided in Section 5-1 of this Chapter.
- (c) Outdoor restaurant seating licenses for use of the public sidewalk or other public property shall not constitute personal property, and the village shall retain at all times the right to terminate any license for use of public property, or may completely eliminate this class of license, upon thirty (30) days written notice to the license holder(s). Should the village terminate any license other than for reason of a violation of the requirements of this Section, the village shall refund to the licensee the pro-rated portion of the annual fee paid by the licensee.

5-2.6.4.2 ANNUAL LICENSE FEE.

The annual fee for an outdoor restaurant seating license shall be:

- (a) \$25 for seating areas not located on public property.
- (b) \$50 for seating areas located on public property.

SECTION 12: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED by the President and Board of Trustee of the Village of Wilmette, Illinois, on the 27th day of June, 1995

AYE: 7

NAY: 0

/s/Heidi Voorhees
Clerk of the Village of Wilmette, IL

Approved by the President of the Village of Wilmette, Illinois, this 27th day of June, 1995.

/s/John Jacobv
President of the Village of Wilmette, IL

ATTEST:

/s/Heidi Voorhees
Clerk of the Village of Wilmette, IL