



TOWN OF EDENTON
SIDEWALK CAFÉ ORDINANCE

(A) *Permit generally.* The Town Manager or her designee may issue permits for the serving of food and beverages on the Town sidewalks and pedestrian ways in the area of the Town known as the Downtown Commercial District pursuant to the Town's Unified Development Ordinance.

(B) *Definitions.* The following definitions shall apply in this section:

1. *Restaurant.* An establishment primarily engaged in the sale of foods, frozen desserts, and beverages to a customer in a ready-to-consume state, and whose operation is such that customers are provided a menu, are served by an employee, and food and beverages are consumed at a table on premises provided the establishment either does not sell or serve alcoholic beverages as defined in Section 130.01 & 130.35 of the Town Code or the establishment meets the requirements of Section (E) herein.
2. *Sidewalk.* That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.
3. *Pedestrian way.* An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.
4. *Restaurant operator.* The person, firm, or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner, and Manager if different from the owner, of the restaurant and associated sidewalk cafe.

(C) *Application.* Any restaurant desiring to operate a sidewalk cafe shall prepare and file an application with the Town Manager or her designee which shall contain the following information.

1. The name, address, and telephone number of the restaurant desiring to operate a sidewalk cafe.
2. The name, address, and telephone number of the restaurant operator.
3. The type of food, beverage, or food product to be sold and served at the sidewalk cafe.
4. The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.
5. A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barricades, and other furnishings on the sidewalk or pedestrian way.
6. Evidence of adequate insurance or other forms of security to hold the Town and its taxpayers harmless from claims arising out of the operation of the sidewalk cafe, as determined by the Town Manager in consultation with the Town Attorney and the Town's property & liability insurance carrier.



7. An indemnity statement, approved by the Town Attorney, whereby the restaurant operator agrees to indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising from the operation of the sidewalk cafe.
8. A copy of all permits and licenses issued by the state or the Town, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.
9. A sworn statement describing any violation by the restaurant operator of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five (5) years immediately preceding the date of the permit application.
10. Such additional information as may be requested by the Town Manager or her designee to determine compliance with this section.
11. A fee as provided in the Town of Edenton Fee Schedule to cover the cost of processing and investigating the application and issuing the permit.

(D) *Issuance of permit.* No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met:

1. The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
2. The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not be more than fifty (50) percent of the interior seating capacity of the associated restaurant. In addition, no more patrons than can be accommodated by the actual seats provided in the sidewalk cafe can occupy the area of the sidewalk cafe.
3. Tables, chairs, and other furnishings, as shown in the drawing submitted with the plan, may be placed at the building or at the curb, but must be located in such a manner that a minimum of five (5) feet of unobstructed width (as measured from the street-side edge of the sidewalk or building front) is retained on sidewalks or pedestrian ways with widths of ten (10) or more feet; sidewalks or pedestrian ways less than ten (10) feet wide require a minimum of four (4) feet of unobstructed width. Obstructions include, but are not limited to, tree boxes, poles, lighting, signs, hydrants and trash receptacles.
4. The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables,



chairs, and other furnishings may not extend beyond the sidewalk or pedestrian-way frontage of the associated restaurant.

5. Tables, chairs, and other furnishings utilized for sidewalk cafes shall be of a type that can be easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within twenty-four (24) hours of notice from the Town. If such items are not removed upon twenty-four (24) hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. These items shall not be permanently affixed to the sidewalk and must remain within the designated boundaries as delineated by Town-installed sidewalk markers. The Town shall also have the right to remove such items immediately in emergency situations. The Town shall not be responsible for damage to public sidewalk cafe furnishings under any circumstances.
6. Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
7. No person shall operate a sidewalk cafe later than 11:00 p.m. After such hour, the area of the sidewalk cafe shall be open to the public and shall not be considered part of the premises of the restaurant. Any person consuming alcoholic beverages in a sidewalk cafe after such hour shall be subject to the provisions of Section 130.36 -130.38 of the Town Code.
8. The approved site plan for the sidewalk cafe must be posted conspicuously within the place of business at all times.
9. All restaurants operating a sidewalk cafe shall keep the approved site area clean as required by Section 94.020 -94.022 of the Town Code.

(E) *Alcoholic beverages.* Notwithstanding the provisions of Section 130.36 of the Town Code, alcoholic beverages may be served at sidewalk cafes provided the following requirements are met:

1. The sidewalk cafe shall be part of a restaurant and shall otherwise be authorized, permitted, or licensed under the state law and Town Code to serve and sell alcoholic beverages for on-premises consumption.
2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.
3. The sidewalk cafe must be included as part of the premises for which an ABC permit for a restaurant, as defined in G.S. § 18B-1000, is issued, pursuant to G.S. § 18B-1001, for



the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.

4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.
5. The restaurant operator shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three (3) years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.

(F) *Denial*. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town council within fifteen (15) working days after the date of the written denial and the Town council may take such corrective action as it shall find necessary. The findings and determination of the Town council shall be final.

(G) *Permit revocation*. The Town Manager may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application.
2. Violated any provision of this Side Walk Café Code or county health department regulations.
3. Violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.
4. Operated the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the sidewalk cafe area clean and free of refuse.
5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business.

Before the revocation of a permit, the Town Manager shall notify the permit holder of her intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify the permit holder in writing of their decision and the reasons therefor. A decision of the Town Manager to revoke a permit may be appealed to the Town council in accordance with the provisions of subsection (f).

(H) *Reservation of rights*. The Town reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the Town, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the



street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the Town.

(l) *Term, transfer, renewal, etc.* Permits issued in accordance with the provisions of this section shall:

1. Be issued for the period beginning September 1 and expiring August 31 of each year;
2. Not be transferable or assignable; and
3. Be subject to site inspection prior to initial permit issuance as well as annual permit renewal.

Adopted this 9th Day of September, 2014