

# 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 (downtown only):

Method to secure rails (downtown only):

Height of rails (downtown only):

Dimensions (width) from front wall of establishment:

Dimensions (length) of railing system (downtown only):

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

### 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 vested property right of individuals or individual businesses is created herein, and to create an aesthetic ambiance which will attract tourists to the Athens area. Further, this chapter is designed to maintain the efficiency, accessibility and safety of the pedestrian path.

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 1](#))

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

- (a) *Sidewalk cafe.* The term "sidewalk cafe" shall mean the location and possible use of furnishings which shall be limited to dividers, tables, umbrellas and/or chairs on the public sidewalk as permitted in this chapter and operated as an extension of a food or beverage establishment 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, umbrellas and chairs only 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" 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; Ord. of 7-5-2011, § 1; [Ord. of 4-7-2015\(2\), § 2](#))

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

It shall be unlawful for any person to operate a sidewalk cafe except as permitted in this Chapter. It shall be unlawful for any person to operate a sidewalk cafe as described in this ordinance without a permit issued by the manager, or to fail to comply with all sections of the sidewalk cafe ordinance. Such permit may 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 vested property rights or any leasehold rights or interests to any person or business. The holder of a permit shall have the right to enforce trespass laws within a sidewalk cafe area. Permittee's use of the sidewalk cafe area is subject to the rights of utility companies pursuant to franchise or easement. Prior to acceptance of a permit, a permittee shall acknowledge that permittee has inspected the sidewalk area and determined that the area is suitable for its purposes and that it assumes all risks associated with its use of such area. 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 the earlier of transfer of ownership, change in use of the establishment, and December 31 of each year.

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 3](#))

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 establishment;
- (3) A copy of a valid Athens-Clarke County occupational tax certificate for the establishment of which the sidewalk cafe will be an incidental activity;
- (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 the area, the dimensions from perimeter to curb or nearest obstacle, and the proposed design and materials of the cafe railing system.

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 4](#))

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 debts, taxes, fines or 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, taxes, fines or fees to the Unified Government of Athens-Clarke County are paid in full. Any permit that is renewed pursuant to this Chapter shall be subject to any of the enforcement actions and imposition of any of the remedies provided in section 6-10-10 of this Chapter even though conduct that is the basis of such enforcement action may have occurred in a previous permit year or an administrative hearing pursuant to section 1-5-1 of this Code with respect to such permit may have been initiated in a prior permit year. In the event that a permit has been revoked by the administrative hearing officer, and the permittee has appealed such revocation to the Superior Court, or the time for filing such an appeal has not expired, consideration or issuance of any application for renewal of such permit for a subsequent year shall be suspended until final judgment in the appeal has been entered by the Court or the revocation has become final with no appeal being filed.

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 5](#))

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

Except as otherwise provided in section 6-10-8 herein, a sidewalk cafe 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 establishment of which it is an extension and shall not extend parallel in either direction beyond the outside front wall of the establishment. The area permitted for a sidewalk cafe shall not extend more than 50% of the minimum sidewalk width, measured from the back of the curb to the face of the building or the property line, whichever is less, measured perpendicular from the outside wall of the establishment; however, a minimum width of five feet shall be provided at all times for continuous unobstructed pedestrian traffic on the sidewalk between the sidewalk cafe area and the edge of sidewalk pavement or fixed obstacles.
- (2) *Divider required.* The area permitted for a sidewalk cafe shall be separated from the remaining sidewalk area by a system of connected rigid metal rails and posts, or other fixed physical

features at the manager's discretion, 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 furnishings 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 and to ensure that all furnishings remain within the area permitted.

- (3) *Sanitation.* It shall be the responsibility and duty of the establishment 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. Pressure washing by permittee shall be conducted using water only. The use of cleaning agents is prohibited. All furnishings are to be kept clean, sanitary, safe, and in structurally sound condition at all times.
- (4) *Removal of furnishings.* All tables, chairs, umbrellas 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 reasons such as, but not limited to:
  - a. Any permitted special event;
  - b. Any street, sidewalk, or utility construction;
  - c. Any emergency situation; or
  - d. The protection of the health, safety, and welfare of the public.
- (6) The sale and consumption of alcoholic beverages within sidewalk cafes that abut the establishment's building may be allowed in accordance with Chapter 6-3 of this Code.
- (7) Section 3-12-23 of this Code 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.
- (9) No items, materials (other than furnishings used in the normal operation of the sidewalk cafe), or trash shall be stored, kept, or maintained within the sidewalk cafe area.

(Ord. of 11-4-2003, § 1; Ord. of 7-5-2011, § 2; [Ord. of 4-7-2015\(2\), § 6](#))

Sec. 6-10-8. - Exceptions.

- (a) Common area sidewalk cafes on College Square are exempt from paragraph (2) of section 6-10-7, which requires the installation of cafe dividers. Such dividers are prohibited within common area sidewalk cafes. 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 common area sidewalk cafes:
  - (1) Common area sidewalk cafes may be provided within the paved brick areas at the four corners of College Square located on either side of College Avenue at its intersections with East Clayton Street and with East Broad Street.
  - (2) Common area sidewalk cafes 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.
  - (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. Furnishings 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.

- (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.
- (b) Sidewalk cafes operated outside of the Downtown Athens District are exempt from paragraph (2) of section 6-10-7, which requires the installation of cafe dividers. Cafe dividers are optional outside of the Downtown Athens District. If installed, cafe dividers must comply with the requirements of paragraph (2) of section 6-10-7 and must be approved as part of the sidewalk cafe permit. 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 operated outside of the Downtown Athens District:
  - (1) Establishments located on the corner of two streets may apply for a sidewalk cafe permit that includes both street faces of the establishment.
  - (2) The permittee shall have the responsibility to ensure that patrons are informed that open containers of alcohol, if otherwise permitted, are not allowed outside of the permitted sidewalk cafe area when no cafe dividers are present.

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 7](#))

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

- (a) Except for actions arising out of Athens-Clarke County's sole negligence, the permittee shall indemnify, defend, save, and hold harmless the Unified Government of Athens-Clarke County, 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 shall 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 Unified Government of Athens-Clarke County 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 Unified Government of Athens-Clarke County 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; [Ord. of 4-7-2015\(2\), § 8](#))

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 or license 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; [Ord. of 4-7-2015\(2\), § 9](#))

Sec. 6-10-11. - Civil fines for violators.

The Administrative Hearing Officer may impose the following minimum civil fines for violations of this chapter:

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

(Ord. of 11-4-2003, § 1; [Ord. of 4-7-2015\(2\), § 10](#))

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)