

Exhibit A

**RULES AND REGULATIONS
FOR
SIDEWALK CAFÉ PROGRAM**

The Zoning Ordinance defines a Sidewalk Café as a portion of an immobile retail food establishment located on a public right-of-way directly adjacent to the retail food establishment.

The following Rules and Regulations govern the operation of an approved Sidewalk Café.

1. Permit

- a. A permit shall be required to operate the Sidewalk Café. Permit applications and information about completing the application are available online at the City of Charleston’s Zoning website and at the Zoning Desk in the Permit Center at 2 George Street.
- b. A non-refundable application fee shall be paid with the submittal of the initial application by a business for a Sidewalk Café permit.
- c. The Sidewalk Café permit shall only authorize food and beverage service, including alcoholic beverages, at the Sidewalk Café. Regardless of what other activity may be permitted to take place inside the establishment that holds the Sidewalk Café permit, such other activity except food and beverage service shall be prohibited.
- d. The permittee or the permittee’s designee shall be required to post the original Sidewalk Café permit, and any conditions that have been imposed upon such permit, on the premises of the affiliated franchise of the Sidewalk Café.

2. Operational conditions

- a. The Sidewalk Café shall not operate earlier than 7:00a.m. and not later than 12:00a.m. unless the hours of the establishment are more restricted by operation of law or otherwise, in which case, the establishment’s more restrictive hours shall control.
- b. All tables, chairs, umbrellas, planters, heaters or any other object associated with the Sidewalk Café (“Sidewalk Café Elements”) shall be promptly stacked/set aside immediately after the Sidewalk Café discontinues its daily operation, and must be removed immediately after the permittee discontinues its daily operations. Stacking or storing of any Sidewalk Café Elements in the public right-of-way at any other time is prohibited.

- c. If alcoholic beverages are served at the Sidewalk Café, the operator must be validly licensed under all applicable laws for such sales. Alcoholic beverages supplied by the customer or by any other person other than the permittee shall not be allowed at the Sidewalk Café. No alcoholic beverages may be stored or mixed in the Sidewalk Café area.
- d. Paper products for the consumption of food or beverages are not permitted at the Sidewalk Café.
- e. Sidewalk Café patrons must wear shoes and shirts at all times.
- f. All Sidewalk Café employees shall be subject to and comply with all applicable requirements and standards for a retail food establishment.
- g. The permittee shall be required to abide by all federal, state and local laws, rules and regulations applicable to the operation of the Sidewalk Café in the City of Charleston.

3. Design and layout

- a. A Sidewalk Café shall only be permitted on sidewalks with a minimum width of eight feet (8') measured from the property line to the face of curb. The layout of the Sidewalk Café shall follow the Sidewalk Café layout plan approved by the City of Charleston.
- b. On sidewalks that abut marked on-street parking spaces or loading zones, Sidewalk Café operators shall maintain a clear pedestrian path of five feet (5') at all times. In areas of higher pedestrian traffic or activity, or in conditions that suggest the need for additional clearance, a clear pedestrian path greater than five feet (5') may be required. On sidewalks that do not abut marked on-street parking spaces or loading zones, Sidewalk Café operators shall maintain a clear pedestrian path ten feet (10') in width at all times. The clear pedestrian path shall be free of any obstructions such as trees, parking meters, utility poles, fire hydrants and the like in order to allow adequate pedestrian movement. All services provided to patrons of the Sidewalk Café and all patron activity shall occur within the designated Sidewalk Café area, and shall not impinge on the required clear distance for pedestrian passage at any time.
- c. The Sidewalk Café shall not interfere with any utilities or other facilities such as telephone poles, fire hydrants, signs, parking meters, mailboxes or benches located on the sidewalk or public right-of-way.
- d. The Sidewalk Café may not impinge on any required clear distances for maneuvering around entrances or exits. The outdoor dining area shall be accessible to disabled patrons and employees, and buildings adjacent to these areas shall maintain building egress as defined by the current building code.

- e. When the Sidewalk Café is located at a street corner, vision clearance requirements shall be in accordance with the Zoning Ordinance of Charleston, Section 54-351. When the Sidewalk Café is adjacent to an alley or driveway, these regulations may also be applied. These requirements may be modified at the discretion of the Zoning Administrator in locations where unusual circumstances exist and where public safety could be jeopardized.
- f. All Sidewalk Café Elements shall be reviewed by the Zoning Administrator and the City's Design Review Committee as part of the Sidewalk Café permitting process.
- g. The use of overhead structures over the outdoor dining areas and removable umbrellas may be permitted provided they do not interfere with street trees. No portion of the umbrella shall be less than seven feet above the sidewalk. Umbrellas and any type of overhead structure shall be designed to be secure during windy conditions and shall be weather resistant.
- h. Any lighting for the Sidewalk Café shall complement the existing building and Sidewalk Café design and shall not cause a glare to passing pedestrians or vehicles. Electrical wires shall not be permitted to access the Sidewalk Café area. Additional lighting may be attached to the permittee's adjacent establishment provided the permittee obtains all necessary approvals for such lighting from the City and Board of Architectural Review, if applicable.
- i. Signs advertising the sale of goods or services at the Sidewalk Café shall be prohibited. This prohibition includes but is not limited to sandwich boards, banners, writing or signs as part of the furniture or umbrellas, pamphlets, podiums, or any other Sidewalk Café Element containing a sign or advertisement. Menus shall be restricted to a maximum size not to exceed nine inches wide and twelve inches long and shall be secured to tabletops or designed in order to prevent debris. A sign posted in a visible location is required at the Sidewalk Café which states, "It is unlawful to consume alcoholic beverages not purchased at permittee's establishment or its Sidewalk Café or to remove alcoholic beverages from the Sidewalk Café".
- j. The Sidewalk Café shall not play amplified music, whether live or recorded. No speakers, microphones, televisions or other audio or video devices shall be permitted at the Sidewalk Café.
- k. No vending machines, carts or objects for the sale of goods shall be permitted at the Sidewalk Café.

4. Residential areas

Licensed businesses located in residential areas that do not meet the sidewalk width and/or pedestrian passage requirements stated in sections 3.a. and 3.b. above may apply for a Sidewalk Café permit approval from the Board of Zoning Appeals-Zoning, pursuant to the requirements of Sec. 54-206, x. of the City of Charleston Zoning Ordinance. The BZAZ may approve the application if it finds that the following conditions are met:

- a. A completed application for a sidewalk café permit has been submitted for review by the Zoning Administrator;
- b. The applicant meets the requirements of section 54-213 with the sole exception of subsection k. paragraph 2. and/or paragraph 3.
- c. The sidewalk café can be operated in the proposed location without compromising public safety or the use of sidewalks for pedestrian travel and access.
- d. The sidewalk café hours of operation will be restricted and be compatible with the surrounding area.
- e. The business applying for the sidewalk café permit is not licensed to permit on premises consumption of alcoholic beverages and will not permit the consumption of alcoholic beverages in the sidewalk café.
- f. The applicant has submitted a petition signed by twenty-five (25) or more residents of the neighborhood in which the sidewalk café is to be located and, if the location is within a neighborhood with a neighborhood association recognized by the City of Charleston, the applicant must provide proof of having presented the proposal for said sidewalk café to that neighborhood association.

5. Insurance

- a. The permittee of the Sidewalk Café permit shall furnish a certificate of insurance evidencing commercial general liability insurance with limits of not less than \$600,000 per occurrence, \$1,000,000 in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide for 30 days prior written notice to be given to the City of Charleston if coverage is substantially changed, canceled, or non-renewed.
- b. The City of Charleston shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of the Sidewalk Café; and the permittee shall indemnify, defend and hold the City harmless from any loss that results directly or indirectly from the permit issuance or the operation of the Sidewalk Café.
- c. If alcoholic beverages will be served at the Sidewalk Café, the permittee shall provide proof of liquor liability insurance for the Sidewalk Café, with limits of not less than \$1,000,000 in such type as shall be acceptable to the City.

- d. Each permittee shall maintain the insurance coverage required under this section during the permit period. The certificate(s) of insurance shall be presented to the Zoning Administrator prior to the issuance of a permit under this section. Failure of the permittee to maintain the insurance required by this section shall result in revocation of the Sidewalk Café permit.

A Sidewalk Café permit will not be issued to a permittee until after the Zoning Administrator and the Fire Marshall have conducted a site inspection of the approved Sidewalk Café and all Sidewalk Café Elements placed therein to ensure that the Sidewalk Café and all Sidewalk Café Elements are in compliance with the approved permit and that the permittee is in compliance with all other requirements of the permit.

The Zoning Administrator or City Code Enforcement Officers will inspect the Sidewalk Café after the permit has been issued and the Sidewalk Café is in operation. Any violations of the provisions of these Rules and Regulations, or any deviation from approved plans or willful omissions of the application will result in citations being issued to the operator and/or revocation of the permittee's Sidewalk Café permit.

Any permittee or his or her employees, agents or contractors who violate or resist enforcement of any provision of the Sidewalk Café ordinance and/or these Rules and Regulations may be subject to immediate permit revocation by the City and/or shall be subject to a fine of not less than that set forth in Section 1-16 of the Code of the City of Charleston, provided that each day that such violation continues shall be deemed a separate and distinct offense. These fines shall be in addition to any expenses incurred for restoration or repair of the public right-of-way, which shall be the responsibility of the permittee.

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