CITY OF PHILADELPHIA • DEPARTMENT OF LICENSES AND INSPECTIONS

LICENSE APPLICATION
SIDEWALK CAFE

Follow instructions listed on the Instruction Sheet. For further information call (215) 686-2490.

WHEN COMPLETED MAIL TO: DEPARTMENT OF LICENSES AND INSPECTIONS
LICENSE ISSUANCE UNIT
PSC—MSB
1401 John F. Kennedy Boulevard
Philadelphia, PA 19102

MAKE CHECK OR MONEY ORDER PAYABLE TO "CITY OF PHILADELPHIA".
ONLY APPLICATION FEE SHOULD BE PAID AT THIS TIME.

1. NAME OF LICENSEE

2. PERSON RESPONSIBLE (IF NOT LICENSEE)

3. LOCATION OF LICENSED ACTIVITY *(INCLUDE ZIP CODE)* ZIP CODE

4. DAYTIME TELEPHONE NUMBER | EVENING TELEPHONE NUMBER | FAX NUMBER | E-MAIL ADDRESS

5. BILLING ADDRESS (INCLUDE ZIP CODE) ZIP CODE

6. OWNER ☐ YES ☐ NO

7. PHILADELPHIA BUSINESS TAX NUMBER

8. PHILADELPHIA BUSINESS PRIVILEGE LICENSE NUMBER

9. LICENSEE FEDERAL TAX OR SOCIAL SECURITY NUMBER

10. DATE ACTIVITY STARTED MONTH / DAY / YEAR

11. FOOD PREPARATION NUMBER

12. LIQUOR LICENSE NUMBER

13. SPECIAL ORDINANCE NUMBER

14. DESCRIPTION OF ACTIVITY/BUSINESS

WILL CAFE HAVE AN AWNING ☐ YES ☐ NO

ENCLOSED CAFE ☐ YES ☐ NO

OUTSIDE CENTER CITY ☐ YES ☐ NO

15. LICENSE TYPE	APPL. FEE	LIC. FEE	REVENUE CODE	EXPIRATION DATE	LICENSE NUMBER
☐ SIDEWALK CAFE OPEN	$160.00	$0.00	3123	6/30/	

TOTAL FEES . . . . . $ _____ RECEIPT NUMBER _____

ATTACHMENTS:

☐ LIABILITY INSURANCE ☐ BOND ☐ LIQUOR LICENSE ☐ NOTARIZED OWNER'S CONSENT

16. CORPORATIONS AND PARTNERSHIPS *(LIST THREE PRINCIPALS OR PARTNERS)*

NAME OF PRINCIPAL OR PARTNER	TITLE	HOME ADDRESS *(INCLUDE CITY, STATE, ZIP CODE)*

17. APPLICANT CERTIFICATION

I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement herein I am subject to the possible revocation of any licenses issued as a result of my false application and such other penalties as may be prescribed by law.

Applicant's Signature _____ *Date* _____

OFFICE USE ONLY

PREREQUISITES *(LIST THOSE CHECKED DURING PROCESSING)*

REMARKS:

☐ APPROVED

☐ REFUSED

REVIEWED BY | NUMBER

DATE | AUDIT

STREETS _____ LAW _____ ART COMMISSION _____ BRT. NUMBER _____

18. APPLICATION AGREEMENT FOR SIDEWALK CAFE LICENSE

I agree to remove the sidewalk cafe within thirty (30) days after written notice has been given by the Department of Licenses and Inspections, if the Department determines that the sidewalk cafe is no longer being used as such; or the licensed premises has been temporarily or permanently closed for violation of any City, state or federal law and/or regulation; or the sidewalk cafe is being operated in violation of any ordinance, rule or regulation of the City of Philadelphia; or that the Department of Streets has determined that the sidewalk cafe, due to pedestrian traffic changes, impedes traffic flow or interferes with underground utilities.

I agree upon any notice to remove a sidewalk cafe by the City, the costs of removal and storage of same, if deemed necessary, and costs of restoring the sidewalk to its original condition shall be paid to the City by the licensee within sixty (60) days after written notice or demand to remove was made upon the licensee by the City. Should payment not be forthcoming within the prescribed time, the City, acting through and by the Law Department, shall institute any and all appropriate legal action to ensure payment of any appropriate cost of removal and restoration. Should the licensee not comply with any notice of removal of a sidewalk cafe, and should the sidewalk cafe be removed by the City as stated herein, the licensee shall be entitled to the return of the equipment, furnishings or appurtenances so removed only after payment of all costs due to the City as stated herein, and by requesting the return in writing. The responsibility for removal under the provisions of this section shall be the sole responsibility of the licensee without any obligation or cost assessed against the City.

I agree that all furnishings will remain within the confines of the approved sidewalk cafe area.

I agree to indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property, or any other claims arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of such sidewalk cafe, or by the acts or omissions of the employees or agents of the licensee in connection with such cafe. The licensee shall also release the City from any and all claims relating to its sidewalk cafe, including, but not limited to, loss of business and/or value of the sidewalk cafe when it is ordered removed or when street, sidewalk or utility construction occurs.

_____ _____

Applicant's Signature Date

CITY OF PHILADELPHIA

DEPARTMENT OF STREETS
ROW PERMITS UNIT
940 Municipal Services Building
1401 John. F. Kennedy Boulevard
Philadelphia, PA 19102-1685

Clarena Tolson
Commissioner

MEMORANDUM

SUBJECT: Applying for a Café License

DEPARTMENT: Streets Right of Way Unit

LOCATIONS: 9TH Floor, Room 940 at the above address

METHOD OF COMMUNICATION: By Phone (215) 686-5503
(215) 686-5502
By Fax (215) 686-5062

PART OF CODE:

Note: Read definitions for Qualification of Café

(1) Definitions:

(a) Establishment. Any place or premises, weather public or private, where any person conducting any enterprise, occupation, vocation or business, whether or not for profit and whether temporarily or permanently located.

(b) Food. Every substance intended for human consumption, whether in solid or liquid form, excluding any substance the sale of which is regulated by the Pennsylvania Liquor Control Board.

(c) Restaurant. Any establishment where food is handled or sold, provided that said establishment is located in a permanent structure.

(d) Sidewalk Café. An open-air space on the public sidewalk directly abutting, adjacent and contiguous to a restaurant or any premises licensed by the Pennsylvania Liquor Control Board, pursuant to regulations (40 Pa. Code Chapter 7, Subchapter B, Section 7.21) of the Board, to conduct business on the above-mentioned premises, where food is served at tables and chairs. [35

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940 Municipal Services Building
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Clarena Tolson
Commissioner

Right of Way Unit, Room 940 MSB building
Steps Required by applicant for the Café Process
(Read and follow all the instructions under Chapter 9-208 in the city code for Sidewalk Café.)

1. Plot Plan (Drawn at required standard scale, minimum of ¼ "=1") and applicatin to be submitted.
(Required to having seven (7) Plot Plans and seven sets of photos, three (3) photos each.)

2. Package list for needed Documents from the applicant, use the check-off list below.
   - ☐ 1.) Seven copies of accepted plot plans.
   - ☐ 2.) If needed, one notarized permission letter from the property owner with six copies.
   - ☐ 3.) Three required photo pictures with six copied sets of proposed café area showing complete sidewalk. Photo locations #1 perpendicular, #2 left horizontal and #3 right horizontal.
   - ☐ 4.) Completed café application form must be type written or printed with attached business car and signed on the back.
   - ☐ 5.) Seven copies of current Liquor License.
   - ☐ 6.) Seven Copies of current insurance certificate.

Note: All Café equipment (tables, chairs and etc.) must fit within encroachment Café boundaries. Example-two chairs and one thirty inch table perpendicular from property line you will need 5'-6" of encroachment. For each chair you will need 1'-" minimum.

3. A visual review of all applicant documents, including plot plan review, will be made at the counter before acceptance for the field inspection.

4. The Streets Department needs to complete a field inspection that will match the plot plan and the existing conditions at the sight for an inspection report which will conclude either acceptable or unacceptable.

5. If acceptable, the Streets department will prepare a café package and then send it to the Law Department and prepare a LCB package, if needed, for the applicant.

6. After receiving the package, the Law Department will contact the applicant, to have the agreements and the bond amount signed.

7. When the documents are signed and completed by both parties. The Law department will send a copy of the agreement to L & I and a communication to the Right-of-Way-Unit.

8. The Right-of-Way-Unit will notify the applicant for final approval and payment for license.

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Need to complete this package as part of the ordinance process

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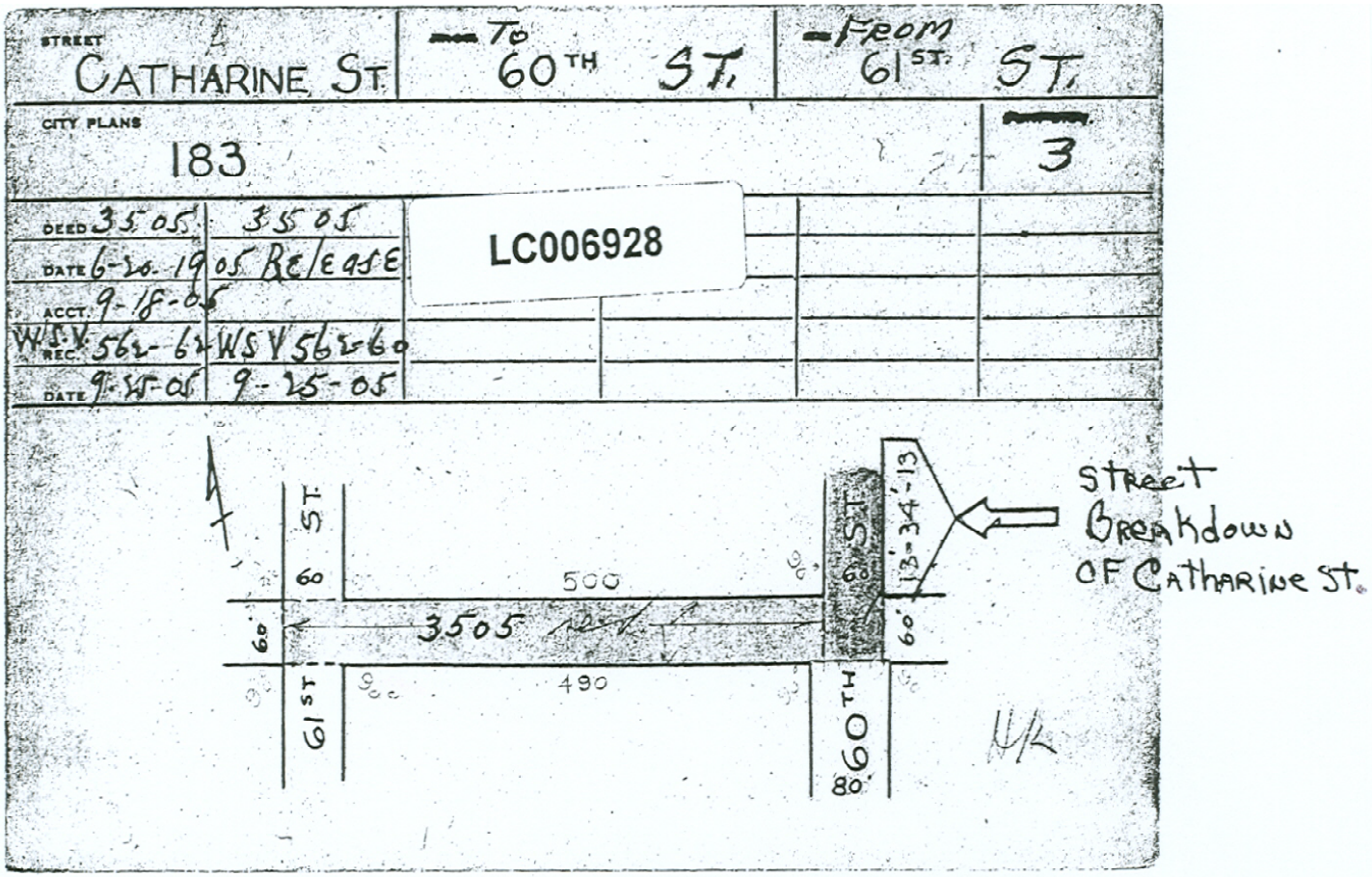
The Café Plot Plan **MUST** have the legal breakdown of the street or streets and a copy of the card or cards from City Plans for confirmation. It does not, you must go to **ROOM 880** (City Plans) and get the copy of the cards for future confirmation and apply the information to the plot plan for review.

Telephone No. (215) 686-5565 ♦♦♦ On the 8th Floor

EXAMPLE BELOW



Note: Section 9-208 part of the code that represents and Ordinance **(Bill#030254-A)** Signed by the Mayor on July 31, 2003.

§9-208. Sidewalk Cafes.359

(1) Definitions:

(a) Establishment. Any place or premises, whether public or private, where any person conducting any enterprise, occupation, vocation or business, whether or not for profit and whether temporarily or permanently located.

(b) Food. Every substance intended for human consumption, whether in solid or liquid form, excluding any substance the sale of which is regulated by the Pennsylvania Liquor Control Board.

(c) Restaurant. Any establishment where food is handled or sold, provided that said establishment is located permanent structure.

(d) Sidewalk Café. An open-air space on the public sidewalk directly abutting, adjacent and contiguous to a restaurant or any premises licensed by the Pennsylvania Liquor Control Board, pursuant to regulations (40 PA. Code Chapter 7, Subchapter B, Section 7.21) of the Board, to conduct business on the above-mentioned premises, where food is served at table and chairs.360

(2) Location. Notwithstanding any provision of Section 9-205, a sidewalk café may be maintained (i) within the area bounded by the Delaware River, the south houseline of South street, the center line of Third street, the south houseline of Bainbridge street, the Schuylkill River and the north houseline of Fairmount avenue; (ii) on Broad street, between Bainbridge street and the north houseline of Washington avenue; (iii) within the area bounded by the south side of Shurs lane to the north side of Green lance and the east side of Cresson street to the Schuylkill River; (iv) on East Passyunk avenue, both sides between Broad street and Federal street; and on Ninth Street, both sides, between Christian Street and Federal Street, provided that the conditions of this section are complied with.354

(3) License, Indemnification and Other Conditions. 362 No person shall erect construct or maintain a sidewalk café, either where permitted by subsection (2) or where permitted pursuant to special ordinance, unless he has obtained a sidewalk café license from the Department of Licenses and Inspections. No license shall be issued unless:

(a) Such person submits the materials required pursuant to subsection (4) to the Department and the Department determines that the location at which the sidewalk café is proposed is a permitted location, either pursuant to this Section or pursuant to special ordinance, and determines that the restaurant to which the proposed sidewalk café is accessory has all other necessary licenses and permits;

(b) The Department of Streets has determined, and advises the Department of Licenses and Inspections, that the proposed café meets the placement requirements of subsection (6);

(c) The licensee agrees in writing, in a form satisfactory to the City Solicitor, to remove the sidewalk café after written notice has been given by the Department of Licenses and Inspections that either;

(.1) The Department of Streets has determined that the sidewalk café no longer meets the placement requirements of subsection (6); the sidewalk café must be removed to accommodate a municipal or municipally sponsored public project; or the Streets Department has granted a temporary permit to close the sidewalk; or

(.2) The Department of Licenses and Inspections has determined that the sidewalk café is no longer being used as such; the restaurant to which the café is accessory has been temporarily or permanently closed for violation of any City, state or federal law and/or regulation; or the sidewalk café is being operated in violation of any ordinance, rule or regulation of the City of Philadelphia;

(d) The licensee agrees in writing in form satisfactory to the City Solicitor to indemnify and hold harmless the City, its officers, employees and agents from against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of, such sidewalk café, or by the acts or omissions of the employees or agents of the licensee in connection with such café. The licensee shall also agree to release the City from any and all claims relating to its sidewalk café, including, but not limited to, loss of business and/or value of the sidewalk café when it is ordered removed or when street, sidewalk or utility construction occurs;

(e) The licensee agrees in writing in form satisfactory to the City Solicitor to obtain and maintain in full force and effect, at the licensee's own expense, an insurance policy naming the City of philadelphia as an additional insured. The policy shall afford comprehensive general liability insurance including contractual liability insurance covering the licensee's indemnification and hold harmless obligations under subsection (d) above an shall provide that the Law Department be notified upon the expiration of coverage in the event the policy is cancelled or the applicant fails to renew the café license. Within ten (10) days of the approval of the sidewalk café license application, and each year thereafter, the licensee shall submit a certificate of insurance in accordance with the agreement and maintain a copy on the premises for review:

(f) The licensee obtains a bond with corporate surety in amount approved by the Streets Department and in form satisfactory to the Law Department to cover indemnification of the City for the cost of removal of any part of the sidewalk café, restoration of the public right-of-way, and all incidental costs; and

(g) The licensee pays an annual fee of $160. Such fee shall be in addition to any fees for other permits and licenses necessary for the operation of the restaurant to which the sidewalk café is accessory. All sidewalk café licenses shall be issued for a one-year period established by the Department of Licenses and Inspections.

(4) License **Applications 356.1**

(a) Applications for sidewalk café licenses shall be made on forms provided by the Department of Licenses and Inspections. Applicants must submit the following the the application:

(1) The name of the applicant, the relationship of the applicant to the restaurant to which the café is accessory (owner, manager, etc.) and the stree address of the property where the sidewalk café is proposed. If the applicant is other than the owner of the building abutting the location of the proposed sidewalk café, the applicant must provide written authorization from the property owner stating that the property owner has not objection to the sidewalk café;

(2) **Four copies** of a plan drawn to minimum **scale of ¼"=1'** showing;

(a) Dimensions of the proposed sidewalk café boundaries, including the building line of the existing building;

(b) Existing sidewalk widths;

(c) The location of all transit stops within **fifteen (15) feet** of the property line and its abutting sidewalk; and

(d) All sidewalk obstructions, including, but not limited to: poles, parking meters, telephone stands, trees, cellar doors, etc. within **ten (10) feet** of the outer edge of the proposed sidwalk café;

(3) **Three color photographs**, at lest 5" x 7", showing the complete area of the building façade. This will necessitate three different photo angles;

(4) A non-refundable application fee of $160.00. When a license is granted, the application fee shall be credited towards the first year's license fee.

(b) The applicant shall be provided with the current form of the written agreements required pursuant to subsection (4) at the time the application is made.

(c) Approval or disapproval of a license to operate a sidewalk café must be issued within thirty (30) days after the applicant complies with all the requirements as set forth in this Section.

(5) **Posting Requirement.356.2**

(a) Within five (5) days of the filing of an initial application for a sidewalk café license, the applicant shall give public notice of the application by posting at a conspicuous location in the front window or on the front door of the restaurant to which the sidewalk care will be accessory a form approved by the Streets Department. The applicant is responsible for assuring that such notice is posted continuously for a minimum of ten (10) consecutive days, and no license shall issue prior to the completion of at least ten (10) days of public notice.

(6) **Placement Requirements.356.3**

(a) All parts of a sidewalk café shall be easily removable;

(b) On streets with **a confirmed** sidewalk width of **thirteen (13) feet or less,** at least **five (5) feet** of clear sidewalk space shall be maintained at **all times** to provide pedestrian access. On streets with a confirmed sidewalk width or **more than thirteen (13) feet**, at least **one-half** the confirmed sidewalk width shall be maintained at **all times** to provide pedestrian access.

(c) The clear sidewalk space shall be measured from the curb line, or, if closer to the sidewalk café, from the nearest obstruction on a line parallel to the curb line, to the outside edge of any chair, table or collapsible railing as shown on the plans approved by the Department of Streets. For the purpose of determining clear sidewalk space, trees, steps, street light poles, sign poles, fire hydrants, parking meters, or other objects located on the sidewalk surface shall be considered as obstructions.

(**d)** **Ventilation grates** cannot be covered and cannot be included as clear sidewalk space.

(e) The licensee shall be responsible for keeping all visitors, patrons, employees, and café fixtures, including, without limitation, tables, chairs, and heaters, from occupying or encroaching into the required clear sidewalk space.

(f) Sidewalk cafes located at street intersections shall provide corner clearance byproviding a ten (10) foot clear space from the point of tangency of the curb line.

(g) No part of the sidewalk café shall be within fifteen (15) feet of a transit stop.

(h) The sidewalk café shall be at the same elevation as the existing sidewalk surface.

(i) The required clear egress space shall be maintained between the exit door(s) of the structure and the clear sidewalk space.

(j) The placement or maintenance of a sidewalk café shall not impede or endanger pedestrian travel, or ostruct or interfere with the installation or maintenance of underground utilities.

(k) Collapsible or removable handrails shall only be permitted where the ground receptacle can be capped. The anchors for such handrails cannot exceed a depth below grade of the sidewalk of four (4) inches. The collapsible or removable handrails shall be removed during periods of the year when the sidewalk café is not is use. The Department of Streets may require an applicant to maintain removable or collapsible handrails or guards when it determines handrails or guards are necessary to prevent encroachment into the clear sidewalk area that is required pursuant to this Section.

(l) Provide that the clear sidewalk space is maintained as otherwise required in this subsection, an applicant may also occupy an area adjacent to the curb line after 7:00 p.m., provided that the following conditions are met:

(1) the café must be located adjacent to a traffic lane regulated for use only for parking and/or loading (i.e. the lance cannot be a traffic lane after 7:00 p.m.);

(2) only movable tables and/or chairs shall be permitted and must be placed at least one and one-half feet (1’6") from the curb line;

(3) chairs must be placed in positions parallel to the curb line; and

(4) the minimum clear sidewalk space required pursuant to this subsection must be maintained at all times except employees of the licensee are permitted to serve tables at the curb lines of cafes in compliance with other provisions of this subsection.

(7) <u>Maintenance of Sidewalk Cafes.366</u>

(a) Licensee shall maintain the sidewalk café in accordance with all City, state and federal laws, as well as any rules and regulations which pertain to the use of the sidewalk café including, but not limited o, any and all City Code rules and regulations as may be required by the Department of Fire, Police, Health, Streets and Licenses and Inspections.

(b) All food served from sidewalk cafes in the following locations shall be served on non-disposable containers, and no sidewalk café shall be maintained in the following locations unless such café is directly abutting a restaurant where more than twenty-five percent (25%) of the interior gross floor area is used for seating:

(1) Chestnut street from Broad street to Eighteenth street; and

(2) Walnut Street from Broad Street to Eighteenth Street.

(c) The issuance of a license pursuant to this Section does not permit any conduct otherwise prohibited by this Code, including otherwise prohibited outdoor cooking and outdoor storage of flammable materials. 357.1

(d) A license granted pursuant to this Section does not create any vested property right in the sidewalk area to which the license applies. 357.2

(8) <u>Remedies. 357.3</u>

(a) Any officer authorized to enforce this Code shall, upon making a determination that the owner or operator of a sidewalk café is in violation of this Section or a sidewalk café license, provide the owner or operator a violation notice.

(b) Such notice shall specify whether the placement of the sidewalk café must be modified to come into compliance with this Section or whether the sidewalk café must be entirely removed and shall provide a time in which compliance is required.

(c) If the owner or operators fails to comply as directed in the notice, the City may institute court proceedings either for collection of penalties as provided in this Section or seeking a court order to force compliance or both.

(d) If the owner or operator of the restaurant fails to comply as directed in the notice, or fails to comply with his or her written agreements under subjection (4), the Department of Licenses and Inspections is authorized to abate the violation, including by removing furniture or other property from the sidewalk, by itself or by contract, and restoring the sidewalk to its original condition. The Department of Licenses and Inspections shall be further authorized to charge the costs of such removal and restoration, including administrative costs, to the violator and the Law Department may take action to collect such costs by lien or any other method. If removed property is not claimed in writing within thirty (30) days, the City is authorized to dispose of said property.

(e) Penalties. 370 The penalty for violation of this Section or any condition of a [permit or rule and/or] license or of a regulation issued pursuant to this Section shall be a fine not exceeding three hundred (300) dollars per day.

(f) Repeat Offenders. 371 Any person who commits, on more than one occasion, a violation of this Section or any condition of a [permit or rule and/or] license or of a regulation issued pursuant to this Section, shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than three (300) dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation
offense.

(9) The Department of streets and the Department of Licenses and Inspections may issue whatever rules or regulations they deem necessary or desirable to effectuate the purpose of this section. With respect to rules or regulations as to the extent of encroachments upon and obstructions of the streets, for the protection or facilitation of pedestrian traffic, such rules or regulations shall not permit encroachments upon or obstructions of the streets greater than those specificied in Title 11 of The Philadelphia Code.359.1

(10) Special Provisions for Existing Sidewalk Cafes and Pending Sidewalk Café Applicants. 359.2 The following special provisions shall apply only within the First and Fourth Councilmatic Districts:

(a) Any sidewalk café operating under the provisions of a license granted before the date Bill No. 030254 became law may continue to operate under the provisions of that license for the remaining term of that license. Renewal of licenses for such sidewalk cafes will be governed by the provisions of this Section as amended by Bill No. 030254, except that no such sidewalk care shall be denied renewal because it fails to meet the “clear sidewalk space” requirement must continue to operate in accordance with the plan submitted when the sidewalk café was licensed prior to the date Bill No. 030254 became law, and if such a sidewalk café wishes operate in accordance with a different plan, such plan must be approved in accordance with all provisions of this Section, including the “clear sidewalk space” requirements of subsection (6).

(b) If a special ordinance authorizing a sidewalk café was passed by Council before the date Bill No. 030254 became law, but a license had not yet been issued for such sidewalk café as of such date, such sidewalk café shall be licensed under the provisions of this Section as it existed prior to the amendments set forth in Bill No. 03054. Once such licsense is issued, the provisions of subsection 10(a) shall apply to such sidewalk café.