



**LAW DEPARTMENT**

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October 10, 2024

Detroit City Council  
1340 Coleman A. Young  
Municipal Center  
Detroit, Michigan 48226

**RE: Proposed ordinance to amend Chapter 43 of the 2019 Detroit City Code, *Streets, Sidewalks and other Public Places*, Article VIII, *Encroachments and Obstructions***

Honorable City Council:

Council Member Gabriella Santiago-Romero has requested that the Law Department prepare an ordinance to amend Chapter 43 of the 2019 Detroit City Code, *Streets, Sidewalks, and other Public Places*, Article VIII, *Encroachments and Obstructions*, by adding Division 3, *Outdoor Dining Streateries*, Subdivision A, *Generally*, to include Section 43-8-61 through 43-8-68; Subdivision B, *Permit*, to include Sections 43-3-81 through 43-8-88 to establish regulations governing the establishment and operation of outdoor dining areas.

A copy of the ordinance which has been approved as to form is attached for your review and consideration.

Respectfully submitted,

/s/ Vie Serifovski

Vie Serifovski

Senior Assistant Corporation Counsel

Enclosure

cc: Malik Washington, Mayor's Liaison

## SUMMARY

**AN ORDINANCE** to amend Chapter 43 of the 2019 Detroit City Code, *Streets, Sidewalks, and other Public Places*, Article VIII, *Encroachments and Obstructions*, by adding Division 3, *Outdoor Dining Streateries*, Subdivision A, *Generally*, to include Section 43-8-61, *Scope of this division*, Section 43-8-62, *Definitions*, Section 43-8-63, *Misdemeanor violation; continuing violation; penalties for conviction thereof*, Section 43-8-64, *General requirements; alcoholic beverages; site specifications*, Section 43-8-65, *Use of tents and shade structures; tents larger than ten foot x ten foot; restrictions and prohibitions*, Section 43-8-66, *Sidewalk streatery requirements*, Section 43-8-67, *Parklet streatery requirements; lost parking meter revenue*, and Section 43-8-68, *Parking lot streatery requirements*; and Subdivision B, *Permit*, to include Sections 43-8-8, *Required*, Section 43-8-82, *Expiration and renewal of permits*, Section 43-8-83, *Application*, Section 43-8-84, *Review of application; exceptions*, Section 43-8-85, *Required inspections; standards for issuance; approval letter*, Section 43-8-86, *Notice of rejection*, Section 43-8-87, *Continued duties of permittee*, and Section 43-8-88, *Revocability of permit*, to establish regulations governing the establishment and operation of outdoor dining areas.

1 **BY COUNCIL MEMBER** \_\_\_\_\_

2 **THIS ORDINANCE** amends Chapter 43 of the 2019 Detroit City Code, *Streets,*  
3 *Sidewalks, and other Public Places*, Article VIII, *Encroachments and Obstructions*, by adding  
4 Division 3, *Outdoor Dining Streateries*, Subdivision A, *Generally*, to include Section 43-8-61,  
5 *Scope of this division*, Section 43-8-62, *Definitions*, Section 43-8-63, *Misdemeanor violation;*  
6 *continuing violation; penalties for conviction thereof*, Section 43-8-64, *General requirements;*  
7 *alcoholic beverages; site specifications*, Section 43-8-65, *Use of tents and shade structures; tents*  
8 *larger than ten foot x ten foot; restrictions and prohibitions*, Section 43-8-66, *Sidewalk streatery*  
9 *requirements*, Section 43-8-67, *Parklet streatery requirements; lost parking meter revenue*, and  
10 Section 43-8-68, *Parking lot streatery requirements*; and Subdivision B, *Permit*, to include  
11 Sections 43-8-8, *Required*, Section 43-8-82, *Expiration and renewal of permits*, Section 43-8-83,  
12 *Application*, Section 43-8-84, *Review of application; exceptions*, Section 43-8-85, *Required*  
13 *inspections; standards for issuance; approval letter*, Section 43-8-86, *Notice of rejection*, Section  
14 43-8-87, *Continued duties of permittee*, and Section 43-8-88, *Revocability of permit*, to establish  
15 regulations governing the establishment and operation of outdoor dining areas.

16 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**  
17 **THAT:**

18 **Section 1.** Chapter 43 of the 2019 Detroit City Code, *Streets, Sidewalks, and other Public*  
19 *Places*, Article VIII, *Encroachments and Obstructions*, be amended by adding Division 3, *Outdoor*  
20 *Dining Streateries*, Subdivision A, to include Sections 43-8-61 through 43-8-68; and Subdivision  
21 B, *Permit*, to include Sections 43-8-81 through 43-8-88, to read as follows:  
22  
23

1 **DIVISION 3. OUTDOOR DINING STREATERIES**

2 **SUBDIVISION A. GENERALLY**

3 **Sec. 43-8-61. Scope of this division.**

4 (a) This division shall govern the operation of streateries, which use an adjacent or  
5 outside area of a food or beverage establishment for the purpose of eating and drinking activities.

6 (b) This division shall not apply to any encroachment or obstruction governed by  
7 Chapter 43, Article VIII, Division 1 and 2 of this Code.

8 **Sec. 43-8-62. Definitions.**

9 For purposes of this division, the following words and phrases shall have the meaning  
10 respectively ascribed to them by this section:

11 Annual permit means an outdoor dining permit that authorizes a business establishment to  
12 provide outdoor dining services from April 1<sup>st</sup> through March 31<sup>st</sup> of each calendar year.

13 Barriers means a physical barrier that is placed in the approved sidewalk or street area for  
14 the purposes of operating outdoor dining services, including but not limited to removable fences  
15 and planters.

16 Fall/Winter permit means an outdoor dining permit that authorizes a business  
17 establishment to provide outdoor dining services from November 16<sup>th</sup> through March 31<sup>st</sup> of each  
18 calendar year.

19 Parking lot means an area of ground outside a business establishment designated for  
20 customers to leave their cars.

21 Parklet means an on-street parking space that has been temporarily converted for other  
22 uses.

1 Sidewalk refers to the portion of a street between the lateral lines of a roadway and the  
2 adjacent property lines that are intended for the use of pedestrians.

3 Spring/Summer permit refers to an outdoor dining permit that authorizes a business  
4 establishment to provide outdoor dining services from April 1<sup>st</sup> through November 15<sup>th</sup> of each  
5 calendar year.

6 Streatery refers to a food or beverage establishment that in accordance with this division  
7 has converted a sidewalk, parklet, or parking lot, to outdoor seating for the purpose of eating and  
8 drinking activities that would otherwise occur inside said establishment.

9 Unobstructed path refers to an Americans with Disability Act compliant route which is  
10 completely clear of any objects that would disrupt a safe and convenient walking path.

11 **Sec. 43-8-63. - Misdemeanor violation; continuing violation; penalties for conviction thereof.**

12 (a) It shall be unlawful for any person to violate any provision of this division.

13 (b) Any person who violates this division may be issued a misdemeanor violation for  
14 each day that the violation continues.

15 (c) Any person who is found guilty of violating any provision of this division shall  
16 be convicted of a misdemeanor for each violation that is issued and, in the discretion of the court,  
17 may be fined up to \$500.00 and sentenced up to 90 days in jail, or both, for each misdemeanor  
18 violation that is issued.

19 **Sec. 43-8-64. General requirements; alcoholic beverages; site specifications.**

20 (a) A streatery that is authorized under this division shall maintain a valid State of  
21 Michigan food service license.

22 (b) Any streatery that serves alcohol beverages shall maintain:

23 (1) A valid liquor license that allows outdoor alcohol sales; and

1           (2) Physical barriers that are weighted down when needed, provided that the barriers  
2           are at least:

3           a. 36 inches in height;

4           b. Free standing, stable and removable; and

5           c. Not anchored to the City right-of-way.

6           (c) All streateries shall provide a pedestrian path of at least six feet, unobstructed  
7 access on the remaining sidewalk, aesthetic compatibility with the surrounding area and comply  
8 with the standards of the Americans with Disability Act.

9 **Sec. 43-8-65. Use of tents and shade structures; tents larger than ten foot x ten foot;**  
10 **restrictions and prohibitions.**

11           (a) The use of tents and shade structures for the purpose of operating a streatory under  
12 this division shall be subject to the following conditions:

13           (1) All sides of the tent or shade structure shall be open for airflow;

14           (2) Each leg of the tent or shade structure must be weighted by a minimum of 40 lbs;

15           (3) All tents or shade structures must be weighted and securely attached to a canopy  
16 roof and canopy leg separately. Items that may be used for acceptable weights shall  
17 include:

18           a. Buckets that are full of water, sand or concrete that weigh a minimum of 55  
19 gallons.

20           b. Four inch PVC pipes that are at least 36 inches long and filled with concrete;

21           c. Large commercially available tent weights; or

22           d. Sandbags or salt bags that each weigh at least 40 lbs.

1           **(b) All tents larger in size than ten foot by ten foot shall require submittal of**  
2 **manufacturer specifications and internal floor plans in accordance with Section 43-8-83(d), and**  
3 **only be placed in private parking lots, parks, or street closures.**

4           **(c) A tent or shade structure in a public right of way shall not use stakes, be erected**  
5 **with the use of bungee or rubber straps, or use heaters of any kind.**

6           **(d) Smoking shall be prohibited under tents and shade structures.**

7 **Sec. 43-8-66. Sidewalk streatory requirements.**

8           **(a) A sidewalk streatory that is authorized under this division shall maintain:**

9           **(1) Dining spaces that are delineated with use of fencing, planters or barriers of**  
10 **temporary surface materials;**

11           **(2) Dining tables that are two feet from the edge of the outdoor dining limit; and**

12           **(3) Chairs that are placed against the edge of the sidewalk.**

13           **(b) The width of a sidewalk streatory shall not exceed the width of the sidewalk**  
14 **frontage of the subject property unless:**

15           **(1) Extended by a maximum of 50 contiguous feet in the public right-of-way on one**  
16 **side and/or the other side of the private property directly abuts the public right-of-**  
17 **way, with the permission of the adjacent business.**

18 **Sec. 43-8-67. Parklet streatory requirements; lost parking meter revenue.**

19           **(a) A parklet streatory that is authorized under this division shall maintain:**

20           **(1) Spaces that are delineated with traffic control devices in accordance with the**  
21 **Michigan Manual on Uniform Traffic Control Devices which must be installed and**  
22 **maintained by the permittee for the protection of patrons;**



1 **Sec. 43-8-82. Expiration and renewal of permits.**

2 (a) Streatery permits shall be valid for the period of time requested as provided in  
3 Section 43-8-83(c) of this Code.

4 (b) Streatery permits shall be renewed pursuant to Section 43-8-83 of this Code by  
5 completing the application process and payment of fees, at least 15 days prior to the expiration  
6 date of the authorized permit period.

7 **Sec. 43-8-83. Application.**

8 (a) Filing. An application for a permit under this division shall be made on a form that  
9 is provided on the Department of Public Works' website. Applicants will be required to create an  
10 OpenGov account for purposes of uploading supporting documents with their application.

11 (b) Filing period. Applications for permits shall be open from January 1<sup>st</sup> through  
12 February 28<sup>th</sup> of each year.

13 (c) Types of permits. An applicant may apply for one of the following types of permits:

14 (1) Annual permits; or

15 (2) Seasonal permits, which authorize the operation of outdoor dining services:

16 a. Spring/Summer from April 1<sup>st</sup> through November 15<sup>th</sup> of each year; or

17 b. Fall/Winter from November 16<sup>th</sup> to March 31<sup>st</sup> of each calendar year.

18 (d) Contents. The application for a permit shall include:

19 (1) The name and address of the business seeking to provide outdoor dining services;

20 (2) The approximate date of when the outdoor dining services are anticipated to  
21 commence;

22 (3) The proposed days and hours of operation;

23 (4) A copy of the State of Michigan Food License;

- 1           (5) Where applicable, a copy of Michigan Liquor License where the business  
2                           anticipates to provide outdoor dining services;
- 3           (6) The proposed location where the outdoor dining services will be provided;
- 4           (7) Site specifications of the proposed sidewalk, parklet, or parking lot that will be  
5                           converted to dining spaces;
- 6           (8) Where applicable, height and width description of a proposed tent or shade  
7                           structure.
- 8           (9) Supporting documentation, including but not limited to the following:
- 9                           a. Site plan;
- 10                          b. Photographs of the proposed furniture that is to be used;
- 11                          c. A signed indemnity agreement;
- 12                          d. Photographs of the existing condition of the area;
- 13                          e. Tent specifications;
- 14                          f. A Certificate of Flame Resistance;
- 15                          g. Heater specifications for winter use; and
- 16                          h. A Historic District Commission Project Review Request Application, if the  
17                                   establishment is located in a Historic District.
- 18           (10) Any additional information which the Director of the Department of Public Works  
19                           shall find reasonably necessary to a fair determination as to whether a permit should  
20                           issue.
- 21           (e) Late applications. The Director of the Department of Works shall have the  
22                           authority, where good cause is shown, to consider any application which is filed less than seven

1 days before the date when the proposed implementation of outdoor dining services are to be  
2 conducted.

3 (f) Fee. There shall be paid at the time of filing the application for an outdoor dining  
4 permit a fee that shall be established in accordance with Section 9-507 of the Charter. The Director  
5 of the Department of Public Works is authorized to establish necessary fees with the approval of  
6 City Council, through the adoption of a resolution, for the cost of issuing the permit. After  
7 adoption of a resolution by City Council and approval by resolution by the Mayor, the fee shall be:

8 (1) Published in a daily newspaper of general circulation and in the Journal of the City  
9 Council;

10 (2) Made available at the Department of Public Works and at the Office of the City  
11 Clerk; and

12 (3) Reviewed by the Director of the Department of Public Works at least once every  
13 two years.

14 **Sec. 43-8-84. Review of application; exceptions.**

15 (a) Except as provided in Subsection b of this section, an application for a streatory  
16 shall be reviewed within 15 business days of submission.

17 (b) An application for a streatory in a Historic District Commission shall be reviewed  
18 no later than 30 business days of its submission.

19 **Sec. 43-8-85. Required inspections; standards for issuance; approval letter.**

20 (a) Prior to the issuance of a permit under this division, the applicant shall submit to  
21 inspections performed by the Department of Public Works' Civil and Engineering Division, the  
22 Fire Department and as applicable, the Municipal Parking Department.

1           **(b) Once the inspections referenced in Subsection (a) have been completed, the**  
2 **application shall be reviewed by the Buildings Safety Engineering, and Environmental**  
3 **Department, the Historic District Commission, the Health Department, the Fire Department, the**  
4 **Municipal Parking Department and the Department of Public Works' Civil and Engineering**  
5 **Division.**

6           **(c) Provided that approval is granted by the departments referenced in Subsection (b),**  
7 **the Director of the Department of Works shall send out an approval letter to the applicant.**

8 **Sec. 43-8-86. Notice of rejection.**

9           **Where the Director of the Department of Public Works disapproves the application for an**  
10 **outdoor dining permit, the City Clerk shall mail to the applicant a notice of the Director's action**  
11 **within (90) days after the date upon which the application was filed.**

12 **Sec. 43-8-87. Continued duties of permittee:**

13           **A permittee under this division shall comply with all permit directions and conditions under**  
14 **this Code and applicable state and federal law and be responsible for:**

- 15           **(1) Activating the spaces and materials needed pursuant to their site specifications;**
- 16           **(2) All maintenance associated with business operations;**
- 17           **(3) Submitting to three City inspections by the Department of Public Works' City**  
18 **Engineering Division which shall be conducted prior to the approval of the**  
19 **application, during the middle of the season, and the end of the year; and**
- 20           **(4) Paying subsequent fees for any additional inspections that are determined to be**  
21 **necessary and modifications that are needed pursuant to those inspections.**

1 **Sec. 43-8-88. Revocability of permit.**

2 In the event of noncompliance with any condition of issuance, a permit that is approved  
3 under the provisions of this division shall be revocable.

4 **Sec. 43-8-89- 43-8-100. Reserved.**

5 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health,  
6 safety and welfare of the People of the City of Detroit.

7 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are  
8 repealed.

9 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City  
10 Council Members serving, it shall be given immediate effect and become effective upon  
11 publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this  
12 ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it  
13 shall become effective on the thirtieth (30) day after publication, in accordance with Section 4-  
14 118(2) of the 2012 Detroit City Charter.

**Approved as to form:**



**Conrad L. Mallett**  
**Corporation Counsel**