



December 23, 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*, to include Subdivision A, *Generally*, Sections 43-8-61 through 43-8-68; and 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*, to include Subdivision A, *Generally*, 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; indemnity agreement*, 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 43-8-81, *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; posting requirements; non-transferable*, 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*, to include Subdivision A, *Generally*, 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; indemnity agreement*, Section 43-8-65, *Use of tents and*
8 *shade structures; tents larger than ten foot x ten foot; restrictions and prohibitions*, Section 43-8-
9 66, *Sidewalk streatory requirements*, Section 43-8-67, *Parklet streatory requirements; lost parking*
10 *meter revenue*, and Section 43-8-68, *Parking lot streatory requirements*; and Subdivision B,
11 *Permit*, to include Sections 43-8-81, *Required*, Section 43-8-82, *Expiration and renewal of*
12 *permits*, Section 43-8-83, *Application*, Section 43-8-84, *Review of application; exceptions*, Section
13 43-8-85, *Required inspections; standards for issuance; approval letter; posting requirements; non-*
14 *transferable*, Section 43-8-86, *Notice of rejection*, Section 43-8-87, *Continued duties of permittee*,
15 and Section 43-8-88, *Revocability of permit*, to establish regulations governing the establishment
16 and operation of outdoor dining areas.

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

19 Section 1. Chapter 43 of the 2019 Detroit City Code, *Streets, Sidewalks, and other Public*
20 *Places*, Article VIII, *Encroachments and Obstructions*, be amended by adding Division 3, *Outdoor*
21 *Dining Streateries*, to include Subdivision A, Sections 43-8-61 through 43-8-68; and Subdivision
22 B, *Permit*, to include Sections 43-8-81 through 43-8-88. to read as follows:
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 exterior area of a food or beverage establishment for the purpose of eating and drinking activities
6 related to the operation of outdoor dining areas.

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

9 Sec. 43-8-62. Definitions.

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

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

14 Barriers means a physical barrier that is placed on the approved sidewalk, parklet or,
15 parking lot area for the purposes of operating outdoor dining services, and includes but is not
16 limited to removable fences and planters.

17 Fall/Winter permit means an outdoor dining permit that authorizes a business
18 establishment to provide outdoor dining services from November 16th through March 31st.

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 1st through November 15th.

5 Streatery refers to a food or beverage establishment that in accordance with this division
6 has converted a sidewalk, parklet, or parking lot, to outdoor seating for the purpose of eating and
7 drinking activities related to the operation of outdoor dining services that would otherwise occur
8 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 business owner or operator to violate any provision
13 of this division.

14 (b) Any business owner or operator who violates this division may be issued a
15 misdemeanor violation for each day that the violation continues.

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

20 **Sec. 43-8-64. General requirements; alcoholic beverages; site specifications; indemnity**
21 **agreement.**

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

- 1 (b) Any streatory that serves alcohol beverages shall maintain:
- 2 (1) A valid liquor license that allows outdoor alcohol sales; and
- 3 (2) Physical barriers that separate the eatery from the surrounding area that are
- 4 weighted down when needed, provided that the barriers are at least:
- 5 a. 36 inches in height;
- 6 b. Free standing, stable and removable; and
- 7 c. Not anchored to the City right-of-way.
- 8 (c) All streateries shall provide a pedestrian path of at least six feet, unobstructed
- 9 access on the remaining sidewalk and comply with the standards of the Americans with Disability
- 10 Act.
- 11 (d) All streateries authorized under this division shall maintain a signed and dated
- 12 indemnity agreement that releases and discharges the City of Detroit or its departments, officers,
- 13 employees, or agents from any and all liability, claims, demands, and causes of action whatsoever,
- 14 legal and equitable, because of damages, losses, or injuries to permittee or permittee's property.
- 15 **Sec. 43-8-65. Use of tents; tents larger than ten foot x ten foot; restrictions and prohibitions.**
- 16 (a) The use of tents for the purpose of operating a streatory under this division shall be
- 17 subject to the following conditions:
- 18 (1) Each leg of the tent must be weighted by a minimum of 40 lbs;
- 19 (2) Any tent with more than one wall shall be considered an internal space and shall
- 20 comply with Michigan Department's Health and Human Service's state orders;
- 21 (3) All tents must not have closed walls in place while open to the public, and all sides
- 22 shall be open for airflow;

1 (4) All tents must be weighted and securely attached to a canopy roof and canopy leg
2 separately. Items that may be used for acceptable weights shall include:

3 a. Buckets that are full of sand, concrete or water that weigh a minimum of 55
4 gallons or at least 459 pounds.

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

6 c. Large commercially available tent weights; or

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

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

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

13 (d) Smoking shall be prohibited under tents.

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

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

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

18 (2) Dining tables that are at least two feet from the edge of the outdoor dining limit;
19 and

20 (3) Chairs that are not facing the edge of the sidewalk.

21 (b) The width of a sidewalk streatory shall not exceed the width of the sidewalk
22 frontage of the subject property.

1 **Sec. 43-8-67. Parklet streatery requirements; lost parking meter revenue.**

2 (a) A parklet streatery that is authorized under this division shall maintain:

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

6 (2) Equipment or furniture that is more than two feet from the edge of the adjacent
7 travel lane;

8 (3) At least 15 feet of distance from any fire hydrant and at least 5 feet from any
9 mailbox, or bike rack;

10 (b) Where applicable, the amount of potential lost parking meter revenue due to the
11 formation of a parklet streatery, as determined by the Municipal Parking Department, will be billed
12 to the permittee on an annual or seasonal basis in accordance with the rules and regulations
13 established by the Municipal Parking Department.

14 **Sec. 43-8-68. Parking lot streatery requirements.**

15 A parking lot streatery that is authorized under this division shall not occupy:

16 (1) More than 50% of off-site parking spaces counted for required parking, when the
17 parking lot is located immediately adjacent to the parent property;

18 (2) Parking spaces that have been designated for disabled persons;

19 (3) Required landscape and buffers of an off-site private parking; and

20 (4) Any converted use of a parking lot that does not comply with the requirements of
21 Section 43-8- 64 and 43-8-65 of this Code.

22 **Sec. 43-8-69. – Sec. 43-8-80. – Reserved.**

1 **SUBDIVISION B. PERMIT**

2 **Sec. 43-8-81. Required.**

3 No person shall engage in, participate in, or operate a sidewalk streatery, parklet
4 streatery, or a parking lot streatery, unless a permit has been obtained from the Director of the
5 Department of Public Works.

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

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

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

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

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

16 (b) Filing period. Applications for permits shall be open from January 1st through
17 March 15th of each year.

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

19 (1) Annual permits; or

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

21 a. Spring/Summer from April 1st through November 15th; or

22 b. Fall/Winter from November 16th to March 31st.

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

- 1 (1) The name and address of the business seeking to provide outdoor dining services;
- 2 (2) The approximate date of when the outdoor dining services are anticipated to
- 3 commence;
- 4 (3) The proposed days and hours of operation;
- 5 (4) A copy of the State of Michigan Food License;
- 6 (5) Where applicable, a copy of Michigan Liquor License;
- 7 (6) The proposed location where the outdoor dining services will be provided;
- 8 (7) Site specifications of the sidewalk, parklet, or parking lot that is proposed to be
- 9 converted to dining spaces;
- 10 (8) Where applicable, height and width description of a proposed tent or shade
- 11 structure.
- 12 (9) Supporting documentation, including but not limited to the following:
- 13 a. Site plan;
- 14 b. Photographs of the proposed furniture that is to be used;
- 15 c. A signed indemnity agreement;
- 16 d. Photographs of the existing condition of the area;
- 17 e. Tent specifications;
- 18 f. A Certificate of Flame Resistance;
- 19 g. Heater specifications; and
- 20 h. A Historic District Commission Project Review Request Application, if the
- 21 establishment is located in a Local Historic District.

1 (10) Any additional information which the Director of the Department of Public Works
2 shall find reasonably necessary to a fair determination as to whether a permit should
3 issue.

4 (e) Applications submitted after application period. The Director of the Department
5 of Works shall have the authority, where good cause is shown, to consider any application which
6 is filed less than seven days before the date when the proposed implementation of outdoor dining
7 services are to be conducted.

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

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

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

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

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

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

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

1 **Sec. 43-8-85. Required inspections; standards for Issuance; approval letter; posting**
2 **requirements; non-transferable.**

3 (a) Prior to the issuance of a permit under this Division, the applicant shall submit to
4 inspections performed by the Department of Public Works' City Engineering Division, the Fire
5 Department, and as applicable, the Municipal Parking Department.

6 (b) Once the inspections referenced in Subsection (a) of this section have been
7 completed and approved, the application shall be reviewed by the Buildings Safety Engineering,
8 and Environmental Department, the Historic District Commission, the Health Department, the Fire
9 Department, the Municipal Parking Department, and the Department of Public Works' City
10 Engineering Division to ensure compliance with governing regulations of the 2019 Detroit City
11 Code.

12 (c) Provided that approval is granted by pertinent departments referenced in subsection
13 (b) of this Section, the Director of the Department of Works shall send an approval letter to the
14 applicant.

15 (d) A permit that is issued under this Division shall be posted at all times by the
16 applicant inside the permitted premises in a conspicuous location near the entrance.

17 (e) Permits issued under this Division are not transferable to another individual,
18 partnership, corporation, or other legal entity.

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

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

23

1 **Sec. 43-8-87. Continued duties of permittee;**

2 (a) A permittee under this division shall comply with all permit directions and
3 conditions under this Code as well as applicable state and federal law and be responsible for:

4 (1) Activating the spaces and materials needed pursuant to approved site specifications;

5 (2) All maintenance associated with business operations;

6 (3) Submitting to three City inspections by the Department of Public Works' City
7 Engineering Division which shall be conducted prior to the approval of the
8 application, during the middle of the season, and the end of the year respectively;
9 and

10 (4) Paying fees for any additional inspections in addition to those referenced in
11 subsection (a)(3) of this Section that are determined to be necessary and
12 modifications that are needed pursuant to those inspections.

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

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

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

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

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

21 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City
22 Council Members serving, it shall be given immediate effect and become effective upon
23 publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this
24 ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it

- 1 shall become effective on the thirtieth (30) day after publication, in accordance with Section 4-
- 2 118(2) of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel