

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 4-148

"Enclosed Sidewalk Cafe Act of 1982".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-334 on first, amended first and second readings, June 8, 1982, June 22, 1982 and July 6, 1982 respectively. Following the signature of the Mayor on July 21, 1982, this legislation was assigned Act No. 4-219, published in the August 6, 1982, edition of the D.C. Register, (Vol. 29 page 3361) and transmitted to Congress on July 21, 1982 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-148, effective September 17, 1982.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July 21, 22, 23, 26, 27, 28, 29, 30

August 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

September 8, 9, 10, 13, 14, 15, 16

AN ACT

D.C. LAW 4-148

D.C. ACT 4-219

EFFECTIVE DATE SEP 17 1982

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 21 1982

To allow year-round use of sidewalk cafes that contribute to street appearance and activity and that do not adversely affect public safety; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Enclosed Sidewalk Cafe Act of 1982".

Sec. 2. Definitions.

(a) Section 1 of article 43 of the Police Regulations of the District of Columbia is amended by inserting the following definitions:

"'Unenclosed Sidewalk Cafe' means any authorized use of public space adjacent to a restaurant which contains tables, chairs, railings, or planters, which is open to the sky and at the sides but may include awnings or umbrellas, and which can be removed within a 24-hour period.

"'Enclosed Sidewalk Cafe' means any authorized enclosure of public space as a temporary structure adjacent to a restaurant which consists of no more than 1 story constructed primarily of light, incombustible or fire-resistant materials, which does not restrict egress from the properties abutting the

CODIFICATION
D.C. Municipal
Regulations
(DCMR)
&
Note,
D.C. Code,
secs. 1-319 & 7-1004
(1981 ed.)

restaurant adjacent to the cafe, and which can be removed within a 24-hour period."

(b) The Second Amendment to the Building Code for the District of Columbia, effective September 21, 1977 (D.C. Law 2-18; 5A-1 DCRR) is amended by inserting the following definitions in section 201.0:

DCMR
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Note,
D.C.Code,
secs. 1-322
& 7-1004
(1981 ed.)

"Unenclosed sidewalk cafe. Any authorized use of public space adjacent to a restaurant which contains tables, chairs, railings, or planters, which is open to the sky and at the sides but may include awnings or umbrellas, and which can be removed within a 24-hour period.

"Enclosed sidewalk cafe. Any authorized enclosure of public space as a temporary structure adjacent to a restaurant which consists of no more than one story constructed primarily of light, incombustible or fire-resistant materials, which does not restrict egress from the properties abutting the restaurant adjacent to the cafe, and which can be removed within a 24-hour period."

Sec. 3. Enclosed Sidewalk Cafes: Building Code Requirements.

The Second Amendment to the Building Code for the District of Columbia, effective September 21, 1977 (D.C. Law 2-18; 5A-1 DCRR) is amended by inserting the following new section 314.3 to read as follows:

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Note,
D.C.Code,
secs. 1-322
& 7-1004
(1981 ed.)

"314.3. Enclosed Sidewalk Cafes

"(1) Permits for approval of enclosed

sidewalk cafes shall be issued by the Director in conjunction with Article 43 of the Police Regulations of the District of Columbia and other applicable laws and regulations. Each application shall be accompanied by drawings of the structure signed by a structural engineer registered in the District of Columbia.

"(2) Permits for enclosed sidewalk cafes shall be subject to the following standards:

"1. Enclosed sidewalk cafes must have walls and roofs constructed of incombustible or fire-resistant materials.

"2. Any flooring must be fire resistant.

"3. Any enclosure materials, and the contents enclosed therein, must be capable of being removed within 24 hours.

"4. The supporting structure of any enclosure shall be constructed in such a manner as to support a 30 PSF (pounds per square foot) live load.

"5. When the combined occupancies of the sidewalk cafe and the adjacent restaurant exceed 75 persons, two exits shall be provided from the sidewalk cafe, one of which shall open directly to the sidewalk, public alley, or public space abutting the cafe one of which may open into the abutting restaurant. If two means of egress are required for the adjacent business property, two means of egress shall be required for the sidewalk cafe. If one of the exits is in the center of

the cafe and serves the interior of the restaurant, the required aisle width may be increased to a width recommended by the Director."

Sec. 4. Standards for Enclosed Sidewalk Cafes.

Section 3 of article 43 of the Police Regulations of the District of Columbia is amended by inserting the following new subsection (n) at the end thereof to read as follows:

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Note,
D.C.Code,
secs. 1-319
& 7-1004
(1981 ed.)

"(n) Requirements for Enclosed Sidewalk Cafes

"(1) All structural materials used in an enclosed sidewalk cafe must be easily demountable and capable of being removed within 24 hours after notice without damage to the sidewalk or public space which it occupied.

"(2) An enclosed sidewalk cafe may utilize a base wall of opaque material up to a maximum height of 36 inches from the sidewalk level. All enclosing walls, doors, and windows, except for structural members, extending above the base wall, must be transparent material. In order to maximize transparency, the horizontal, as well as the vertical, structural members shall be no more than 10 inches wide.

"(3) No plumbing fixtures may be installed in an enclosed sidewalk cafe; heating, air-conditioning, ventilation, and electrical lighting may be installed, when authorized, in accordance with

the applicable District codes and regulations.

"(4)(A) Except as provided in subparagraph (B), a sidewalk cafe may be enclosed only during the period from October 15 through May 15.

"(B) If no inspection is required under this section or the Second Amendment to the Building Code for the District of Columbia, approved September 21, 1977 (D.C. Law 2-18; 5A-1 DCRR), a sidewalk cafe may be enclosed on any day when the National Weather Service predicts at 8:00 a.m. at the National Airport weather station that within the next 24 hours the temperature may go above 90 degrees Fahrenheit or below 60 degrees Fahrenheit or the chance of rain is 50 percent or more, or in the event of rain.

"(5) No enclosed sidewalk cafe shall project more than 20 feet from the building line or occupy more than 60 percent of available surface space: PROVIDED, That all enclosed cafes shall be subject to the provisions of subsection (g) of this section.

"(6) In addition to a permit to occupy public space issued under this article, an owner shall obtain a separate building permit for an enclosed sidewalk cafe in accordance with section 314.3 of the Second Amendment to the Building Code for the District of Columbia, approved September 21, 1977 (D.C. Law 2-18; 5A-1 DCRR).

"(7) The Committee may waive, in accordance with the procedures for a contested case

under section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509), any of the requirements of this subsection if:

"(A) the strict application of this subsection would result in exceptional practical difficulty because of the shape, topography, or other condition of a particular property or would result in undue hardship; and

"(B) relief can be granted without substantial detriment to the public good or the general purpose of this subsection.

"(8) Nothing in this subsection shall be construed to affect the operation or design of an unenclosed sidewalk cafe.

"(9) Nothing in this section shall affect any landlord-tenant relationship as established by a lease or judicial order in effect on the effective date of the Enclosed Sidewalk Cafe Act of 1982."

Sec. 5. Fee Schedule for Enclosed Sidewalk Cafes.

Section 202 of the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1158; D.C. Code, sec. 7-1005) is amended by deleting the period at the end of the second sentence and inserting the phrase ": PROVIDED, That the annual rent for public space used in an enclosed sidewalk cafe shall be double the annual rent for equivalent public space used as an unenclosed sidewalk cafe." in lieu

D.C.Code,
sec. 7-1005
(1981 ed.)

thereof.

Enrolled Original

Sec. 6. Miscellaneous Amendments Applicable to
All Sidewalk Cafes.

(a) Section 3(a) of article 43 of the Police Regulations of the District of Columbia is amended by striking the phrase "other than R and SP" and inserting the phrase "for the proposed use" in lieu thereof.

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Note,
D.C.Code,
secs. 1-319
& 7-1004
(1981 ed.)

(b) Section 3(j) of article 43 of the Police Regulations of the District of Columbia is amended by inserting a new paragraph (15) to read as follows:

"(15) That no food may be consumed on public space unless table service is provided by a waiter or waitress or unless an attendant is assigned to this area for maintenance purposes at all times this area is occupied by patrons."

(c) Section 3 of article 43 of the Police Regulations of the District of Columbia is amended by inserting a new subsection (o) to read as follows:

"(o)(1) The Director, upon the recommendation of the Committee, shall issue rules establishing standards for design, traffic and pedestrian safety, and compatability with the surrounding neighborhood for the rental of public space within 90 days of the effective date of the Enclosed Sidewalk Cafe Act of 1982. These rules shall supplement the requirements of this article.


"(2) The design of a sidewalk cafe shall be approved by the Director."

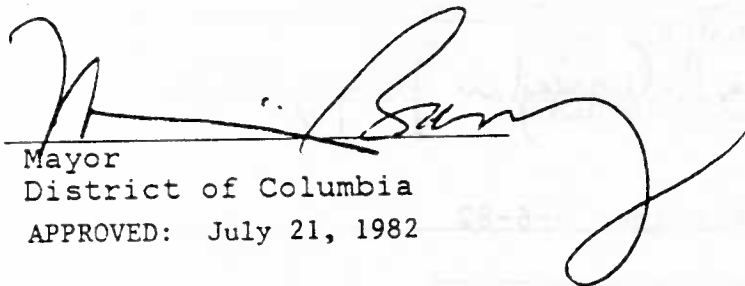
Sec. 7. Compliance Requirements. All existing enclosed sidewalk cafes shall meet the requirements of this act within 18 months of the effective date of this act.

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Note,
D.C.Code,
secs. 1-319
& 7-1004
(1981 ed.)

Sec. 8. Effective Date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: July 21, 1982



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Four
Second Session

DOCKET NO: B 4-334

Item on Consent Calendar

ACTION: Adopted First Reading, 6-8-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Vivian B. Cunningham
Secretary to the Council

July 8, 1982
Date

Item on Consent Calendar

ACTION: Adopted Amended First Reading, 6-22-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Vivian B. Cunningham
Secretary to the Council

July 8, 1982
Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 7-6-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Vivian B. Cunningham
Secretary to the Council

July 8, 1982
Date