

CITY OF CLAREMONT
ORDINANCE 52-25
AN ORDINANCE TO AMEND TO THE CODE OF ORDINANCES
OF THE CITY OF CLAREMONT
TITLE 6, LICENSING AND REGULATION
CHAPTER 2, STREET AND SIDEWALK USE AND REGULATION

- WHEREAS,** the City of Claremont values a vibrant and thriving dining scene that enhances the overall quality of life for residents and visitors alike;
- WHEREAS,** outdoor dining options, such as sidewalk dining, have been shown to promote social interaction, increase foot traffic, and support local businesses; and
- WHEREAS,** the practice of sidewalk dining can enhance the aesthetic appeal of the City by creating a more inviting and pedestrian-friendly environment; and
- WHEREAS,** the regulation of sidewalk dining is necessary to ensure public safety, maintain accessibility for all pedestrians, and uphold the aesthetic character of the City; and
- WHEREAS,** a well-regulated sidewalk dining program can contribute to the economic vitality of local restaurants while providing enjoyable dining experiences for the community,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAREMONT,

That Title Six (6), Chapter 2 Street and Sidewalk Use and Regulation, is hereby amended by the addition of an Article D, as set out below.

Article D

Sec. 6-2-40. Sidewalk dining permitted.

Any restaurant located within the Downtown Claremont Social District may serve food and beverages on adjacent city sidewalks and pedestrian ways upon the issuance of a sidewalk café permit and pursuant to the provisions of this article.

Sec. 6-2-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amenities means any items placed in the sidewalk café area for the use of the customers. These items shall be made of a material that will not require permanent mounting or external weights, but may be easily moved.

For the purposes of this section, this definition includes, but is not limited to tables, chairs and benches. The definition does not include any required permanently mounted barriers.

City means the City of Claremont, North Carolina.

City Manager means the City Manager of the city or his or her designee.

City Planner means director or department head for the department of Planning and Zoning for the city (also referred to as the director).

Pedestrian way means an improved walk or passageway intended for use by pedestrians, but not adjacent to any public street.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

Restaurant means any establishment engaged in the business of regularly selling food or beverages (including alcoholic beverages) customarily, but not exclusively, to be consumed on the premises, including businesses that are commonly referred to as restaurants, cafeterias, cafes, bars, pubs, lunch stands, grills, snack bars, fast food businesses and including establishments that have a lunch counter or section where food is sold. The definition does not include push carts, vehicles or temporary stands selling food.

Restaurant operator means the person operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner, tenant, and manager if different from the owner or tenant, of the restaurant and associated sidewalk cafe.

Sidewalk means that portion of a public street between the curblin, or the lateral lines of a roadway if there is no curb and the adjacent property line that is intended for use by pedestrians.

Sidewalk café means that area or portion of the sidewalk or pedestrian way, which is located on private property, immediately adjacent to an operating restaurant in which food and beverages prepared in the restaurant are served to members of the public, and which is operated under the same name and by the same restaurant operator as the adjacent restaurant pursuant to a sidewalk café permit issued by the city.

Sec. 6-2-42. Alcoholic beverages.

Unless permitted by the alcohol and beverage control board, alcoholic beverages may not be served at any sidewalk cafe. Where sidewalk cafes serve alcoholic beverages, there must be clear non-temporary stanchions or barriers where it shall be posted that it is unlawful to remove alcoholic beverages from the premises. This shall not apply when the Social District is active.

Sec. 6-2-43. Reservation of rights.

The city reserves the right to require any sidewalk cafe established pursuant to this article to temporarily cease part or all of its operation in order (1) to allow for construction, maintenance or repair of any street, sidewalk, utility or public building by the Department of Transportation, the city, its agents or employees, or by any other

governmental entity or public utility, and (2) to allow for use of the street or sidewalk in connection with parades, civic festivals and other events of a temporary nature as permitted by the city.

Secs. 6-2-44—6-2-50. Reserved.

Sec. 6-2-51. Permit Required.

The City Manager or their designee may issue permits in accordance with this Article for the serving of food and beverage on sidewalks and pedestrian ways in the city.

Sec. 6-2-52. Application.

Any restaurant desiring to operate a sidewalk cafe shall prepare and file an application with the City Manager or their designee, which shall contain the following information:

- (1) The name, address and telephone number of the restaurant desiring to operate a sidewalk cafe.
- (2) The name, address and telephone number of the restaurant owner.
- (3) The type of food, beverage or food product to be sold and served at the sidewalk cafe.
- (4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.
- (5) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barricades and other furnishings on the sidewalk or pedestrian way.
- (6) Evidence of adequate insurance or other forms of security to hold the city and its taxpayers harmless from claims arising out of the operation of the sidewalk cafe, as determined by the City Manager, but in no event in an amount less than the amount specified by the city under G.S. 160A-485 as the limit of the city's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance company shall protect and name the Department of Transportation and the city as additional insureds on any policies covering the business and the sidewalk activities.
- (7) An indemnity statement, approved by the city attorney, whereby the restaurant operator agrees to indemnify and hold harmless the Department of Transportation and the city and its officers, agents and employees from any claim arising from the operation of the sidewalk cafe.
- (8) A copy of all permits and licenses issued by the state, the county or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the restaurant.
- (9) Such additional information as may be requested by the City Manager or their designee to determine compliance with this section.
- (10) A fee as provided in the city fee schedule to cover the cost of processing and investigating the application and issuing the permit.

Sec. 6-2-53. Issuance.

No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met:

(1) The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.

(2) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not constitute more than 50 percent of the total seating capacity of the associated restaurant.

(3) Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.

(4) The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space (as measured from the street side edge of the sidewalk) remains on the sidewalk or pedestrian way for the passage of pedestrians.

(5) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant.

(6) The tables, chairs and other furnishings used in the sidewalk cafe shall be of a type that is easily movable. Furnishings must be kept secure and stable in the event of strong winds. Temporary anchoring devices are acceptable, however, no furniture may be permanently bolted, screwed, or otherwise affixed to any surface.

(7) Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.

(8) Except as elsewhere permitted, the operation or furnishings of the sidewalk cafe shall involve no permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant.

(9) Any other requirements deemed necessary by the Department of Transportation, either for a particular local government or a particular component of the State highway system.

Sec. 6-2-54. Denial.

A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the board of adjustment within 30 days after the date of the written denial by filing written notice of appeal with the City Clerk, and the board of adjustment may take such corrective action as it shall find necessary. Any decision of the board of adjustment modifying or reversing denial of the permit shall first find that permit approval:

(1) Would be in compliance with all required conditions and specifications for approval,

(2) will not materially endanger the public health or safety,

(3) is in harmony with the area of the Downtown Claremont Social District and in conformity with adopted plans for that area, and

(4) would not substantially injure the value of adjoining property,

The findings and determination of the board of adjustment shall be final.

Sec. 6-2-55. Revocation.

(a) The City Manager may revoke a permit issued pursuant to this division if he finds that the restaurant operator has:

- (1) Deliberately misrepresented or provided false information in the permit application, or
- (2) Violated any provision of the county health department regulations, or
- (3) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances, or
- (4) Operated the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse, or
- (5) Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business.

(b) Before the revocation of a permit, the City Manager shall notify the permit holder of his intent to revoke the permit and the reasons for revocation and shall afford the permit holder a reasonable opportunity to appear before the City Manager and be heard on the question of such revocation. After the hearing, the City Manager shall notify the permit holder in writing of this decision and the reasons. Permit holders of permits issued in accordance with this Article may appeal decisions revoking the permit to the board of adjustment by filing written notice of appeal with the City Clerk within 30 days of the date of issuance of the written decision revoking the permit, but such appeal shall not stay the revocation. The board of adjustment may overturn the decision of the City Manager revoking the permit only if the board of adjustment finds that the revocation was made arbitrarily and capriciously without evidence to support the reasons for denial as set forth in subsection (a) above

Sec. 6-2-56. Term, transfer, renewal.

Permits issued in accordance with the provisions of this division shall:

- (1) Be issued for the period beginning July 1 and expiring June 30 of the following year.
- (2) Not be transferable or assignable.

Secs. 18-57—18-75. Reserved. This ordinance shall be effective upon passage.

This ordinance shall be effective upon passage. Adopted this the 5th day of May 2025.

Shawn R. Brown, Mayor

ATTEST:

Wendy Helms, City Clerk/HR Officer

APPROVED AS TO FORM:

Robert M. Grant Jr., City Attorney