

**CHAPTER 110  
SIDEWALK CAFES**

[HISTORY: Adopted as Ordinance #93-14 on July 12, 1993 by the Durham Town Council. Established licensing for Sidewalk Cafes. All amendments included at time of adoption of Code].

**Article I  
GENERAL PROVISIONS**

**110-1. Purpose and Intent.**

It is the intent of this chapter to enable the operation of sidewalk cafes within the public right-of-way in the downtown area while at the same time regulating their use in order to protect and promote the public health, safety and welfare of the Town's citizens.

**110-2. Permit Standards.**

A "sidewalk Cafe" is permitted as an extension of any permitted restaurant in the Central Business District after demonstration of compliance with the following standards:

- A. A detailed plan of the proposed seating arrangement and layout of pedestrian corridors; pedestrian corridors for sidewalk use and restaurant access shall be maintained in a manner that does not disrupt pedestrian traffic flow and have an unobstructed travel way that is a minimum of 4 feet in width;
- B. seats and tables shall be structurally sound;
- C. Placement of a sidewalk cafe or outdoor seating shall be limited to the area of sidewalk directly in front of the restaurant establishment;
- D. Provide proof of a \$1,000,000 liability insurance policy which names the Town as a co-insured entity;
- E. Location of the seats and tables will not jeopardize the health, safety, license and welfare of the general public;
- F. sidewalk cafes shall not obstruct snow removal equipment or impede winter maintenance operations in anyway; and

**110-3. Duration.**

Each sidewalk cafe area shall be permitted for a period not to exceed one year. Request for renewals shall be evaluated based on the previous year's compliance with the standards cited above and all other applicable local regulations.

**110-4. Licensing Process.**

- A. License applications shall be made to the Town Administrator, or designee, on forms prescribed by the Town Administrator. The application shall be reviewed based on the standards noted in section 1 of the ordinance.
- B. The license application shall be acted upon within thirty (30) days of submittal. If not acted on within that time frame, the application will be considered approved.
- C. If the application is denied, the applicant shall be notified, in writing, within seven (7) days of the denial. Such written notification will include an explanation of the reasons for denial.
- D. Each license granted under this ordinance is granted on the condition that all provisions of this ordinance shall be complied with. Any violation of any term of this ordinance constitutes a violation of the conditional granting of the license itself. If the Town believes that such a violation has occurred, it shall notify the holder of the license in writing of the nature of the violation. The holder will be invited to reply in writing to the allegations within ten (10) days or to request a hearing to be held before the Town Administrator. Within ten (10) days of the receipt of the response of the holder of the license or within ten (10) days after the close of any hearing held, the Town Administrator shall issue a written decision either warning the holder against future violations, suspending the license of the holder for a specified period of time not to exceed thirty (30) days or revoking the license for the remainder of its term.

**110-5. Licensing Fees.**

The license fees shall be \$25, or as amended from time to time by action of the Town Council.

**110-6. Appeal Process.**

Applicants may appeal the denial of an application to the Town Council within fifteen (15) days of written notification by the Town that the application has been denied. The Town Council shall hold a public hearing within thirty (30) days of the request for an appeal. The decision of the Town Council shall be final.

**110-7. Damage to Obstructions.**

Any damage to obstruction by any cause whatsoever, including snow plowing and removal, will be at the sole expense of the obstruction owner.

**110-8. Hold Harmless.**

Every person or other entity which places or maintains an obstruction on a public sidewalk or street in the Town shall file a written statement with the Town Clerk satisfactory to the Town Attorney, whereby he/she, or it agrees to indemnify and hold harmless the Town, its officers, Council

*Code of the Town of Durham, NH*  
*Chapter 110 – Sidewalk Cafes*

members and employees, from any loss or liability or damage, including expense and costs, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use or maintenance of such obstruction.

**110-9. Injunction.**

Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the Town Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuance of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, preliminary injunction and permanent injunction. The Town Attorney may also sue for damages on behalf of the Town.

**110-10. Penalty.**

Any person, firm or corporation violating any provision of this ordinance shall be fined \$100 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.