

ORDINANCE NO. 6713

**AN ORDINANCE AMENDING TITLE 11, CHAPTER 119,
SECTIONS 119.20, 119.21, 119.22, 119.23 AND 119.24
OF THE LOMBARD VILLAGE CODE IN REGARD TO
OUTDOOR CAFES AND OUTDOOR SEATING
WITHIN THE PUBLIC RIGHT-OF-WAY**

WHEREAS, the Village of Lombard maintains business regulations for restaurants and food which are found in Title 11, Chapter 119 of the Lombard Village Code, and

WHEREAS, the Village of Lombard (the "Village") is also responsible for, among other things, the issuance of permits for the utilization of public right-of-way owned and maintained by the Village; and

WHEREAS, in an effort to promote, facilitate and stimulate immediate utilization of sidewalk seating associated with adjacent businesses, the Economic and Community Development Committee (ECDC) of the Village has offered a recommendation to amend the existing regulations set forth within Chapter 119 of the Lombard Village Code; and

WHEREAS, the President and Board of Trustees of the Village deem it reasonable to periodically review the Lombard Village Code, and make necessary changes thereto;

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That Title 11, Chapter 119, Sections 119.20, 119.21, 119.22, 119.23 and 119.24. of the Lombard Village Code is hereby amended by adding those words that are underlined, and deleting those words that are lined through, as set forth below:

**OUTDOOR CAFES AND OUTDOOR SEATING ON THE PUBLIC RIGHT-OF-WAY
§ 119.20 PERMIT REQUIRED**

Notwithstanding any other provision in this Code it is unlawful for any person, firm, corporation, organization or association to operate an outdoor café in compliance with Section 155.418 of this Ordinance or to use the public right-of-way for outdoor seating, as an extension of the establishment, or to provide entertainment in conjunction with such outdoor cafes or outdoor seating, without obtaining a permit. Permits will be issued for outdoor cafes and/or outdoor seating on public right-of-way only to business establishments subject to the places for eating tax, as set forth in Section 98.111 of this Code. Such permit may be purchased at any time during a calendar year, but all permits shall expire on December 31st of the same calendar year. No permit shall be issued to any business establishment which is not in compliance with all provisions of this Code.

§ 119.21 APPLICATION AND FEE

All applicants for outdoor cafe permits and/or outdoor seating on the public right-of-way permits must complete an application in a form approved by the Village, which must be submitted to the Village's Department of Community Development with a nonrefundable fee of \$150.00, or a non-refundable renewal fee of \$50.00 for those renewing a permit from the previous year where no substantial changes have been made to the site plan. Applicants applying for both permits simultaneously may pay one (1) \$150.00 fee. All applications shall include the following information:

(A) Name of the proprietor and the business establishment for which the outdoor cafe permit and/or the outdoor seating on the public right-of-way permit is sought.

(B) The address and phone number of the proprietor and the business establishment.

(C) A detailed site plan showing all existing objects on the property and on the public right-of-way adjacent to the business establishment including a depiction of on-street parking adjacent to the business establishment, and the proposed location of each chair and table. When music or other entertainment is provided outdoors on the private property of the petitioner requesting the permit, the site plan shall include the area and placement of said music or entertainment.

(D) Permit applications for outdoor seating on the public right-of-way must include Certificates of Insurance in the following amounts:

1) Comprehensive General Liability Insurance - \$1,000,000, showing the Village and, its officers, employees, agents and volunteers as additional insureds, and containing a statement that said policies shall not be changed or canceled without thirty (30) days written notice to the Village of Lombard; 2) Workers' Compensation - Statutory amount; and 3) if alcoholic beverages will be served, Dram Shop insurance as required by Section 112.18(A)(17) of this Code.

(E) Permit applications for outdoor seating on the public right-of-way must include a signed indemnification statement on the form provided by the Village. An inspection of the property to document existing conditions of public improvements shall be performed by the Village prior to issuance of an outdoor cafe permit and/or an outdoor seating on the public right-of-way seating permit. Applications should be filed at least two (2) weeks prior to scheduled use to allow sufficient time for such inspection.

(F) Permit applications applied for relative to the 2012 calendar year shall be exempted from the associated permit fee requirement, as set forth above, for the 2012 season.

§ 119.22 REGULATIONS

All permit holders shall be subject to the following regulations:

Ord. 6713
Outdoor Cafes & Outdoor Seating

(A) The outdoor cafe area and the outdoor seating on the public right-of-way area shall be maintained clean and free from refuse or clutter at all times, regardless of the source of such refuse and clutter. Refuse from the outdoor seating area shall not be disposed of in public waste receptacles.

(B) Outdoor seating elements (as defined in Section 119.23 below) shall not be permanently attached, and shall be removed when not in use during cold weather months (generally October through March). Any outdoor seating elements owned by the business establishment, that are intended to be placed within the public right-of-way outside of established business hours, shall be identified within the annual permit application, and shall be subject to review by the Director of Community Development. If approved, the Village reserves the right to require the establishment to remove or modify the outdoor seating elements, if deemed necessary by the Village at any time.

(C) For outdoor seating on the public right-of-way, all public improvements shown on the site plan, including, but not limited to, pavers, benches, light poles and trees shall be maintained in the condition in which they existed immediately prior to the issuance of the permit, excluding normal wear and tear. The permit holder shall immediately report any damage to such public improvements to the Community Development Department. The Village shall repair or replace such public improvement at its discretion, and shall charge the cost of repair or replacement to the permit holder, unless the damage can be clearly shown to have resulted from a cause not related to the issuance of the outdoor seating on the public right-of-way permit.

(D) Activities involving the outdoor seating on the public right-of-way shall be conducted in a manner that does not interfere with pedestrians, parking or traffic.

(E) Outdoor cafe permits and/or outdoor seating on the public right-of-way permits shall be posted in a conspicuous place inside the business establishment.

(F) The source of music or other entertainment provided outdoors in conjunction with an outdoor café or outdoor seating on the public right-of-way permit, shall be located only on the private property of the permit holder, and shall be provided, with noise levels maintained in strict compliance with the provision of Title 9, Chapter 93 of this Code or any other codes which may be established with regard to noise or public nuisances. Furthermore, all outdoor music or entertainment shall cease by 10:30 p.m. on Sunday through Thursday, and by 11:30 p.m. on Friday and Saturday.

(G) Outdoor seating areas on private property shall be permitted for establishments in which the designated seating area is on the same lot of record as the business establishment and located within the buildable area of the property. For outdoor seating within public rights-of-way, the outdoor seating area shall be limited to the areas designated on the permit, and, shall not be located in front of any other business establishment or use unless the permit holder provides authorization to the Village, from the adjacent business owner or occupant stating that he/she/it

Ord. 6713
Outdoor Cafes & Outdoor Seating

consents to the sidewalk seating elements being placed in front of his/her/its business establishment or use.

(H) Business establishments must meet all provisions as set forth within the Smoke Free Illinois Act.

(I) Business establishments must provide public restrooms for patrons, as required by this Code.

(J) Business establishments shall be entitled to remove or exclude persons from the outdoor seating on the public right-of-way area during the hours of business operation, and are authorized to give notice to any such persons to prevent such entry, in the same manner as applicable to the non-public right-of-way portion of the business establishment.

§ 119.23 RESTRICTIONS

(A) Tables, Chairs, Temporary Fencing, Decorations and Umbrellas (the “outdoor seating elements”):

(1) shall be located so that a four (4) foot wide unobstructed walkway, as measured from the outdoor seating element to any other obstructions on the opposite side of the unobstructed walkway, is maintained at all times;

(2) shall be located in accordance with the approved site plan, shall generally be immediately adjacent to the building and in no instance less than forty-two (42) inches from the back of curb, except that outdoor seating elements can be located closer than forty-two (42) inches from the back of curb when there is no parallel parking adjacent to them (said modification to these requirements may be varied by the Director of Community Development, if granting such approval provides for a better design and layout of the seating area);

(3) shall not obstruct normal ingress and egress from the businesses establishment;

(4) shall not be of a design and/or weight that will create a wind-blown hazard, and,

(5) shall meet all provisions of the Americans with Disabilities Act and the Illinois Accessibility Code.

(B) The following items or actions are prohibited in the outdoor seating on the public right-of-way area:

(1) outdoor seating elements in locations not approved by the Department of Community Development, and

(2) electrical appliances.

Ord. 6713
Outdoor Cafes & Outdoor Seating

(C) The following provisions are required for business establishments where the service or consumption of alcoholic beverages will take place in the outdoor cafe or outdoor seating on the public right-of-way:

- (1) The business establishment shall have a valid liquor license issued by the Village, that allows for the service of the type of alcoholic beverages being served.
- (2) Alcoholic beverage consumption shall only be permitted within the designated outdoor seating area, or any other portion of the business establishment to which the liquor license relates. The permit holder shall not allow or permit any customer, employee or other person to remove alcoholic beverages from the area designated in the outdoor cafe or outdoor seating area in the right-of-way permit, other than to another location within the business establishment to which the liquor license relates.
- (3) To ensure that consumption of alcoholic beverages is limited to the designated outdoor seating areas and operated in compliance with this Code, outdoor cafes and outdoor seating areas on the public right-of-way shall be regularly monitored and bussed by an employee or contractor of the business establishment.
- (4) The hours during which patrons may occupy the outdoor café or outdoor seating on the public right-of-way shall not extend beyond the hours of operation of the other portions of the business establishment. Notwithstanding the foregoing, the outdoor café or outdoor seating on the right-of-way shall not be occupied during the following times:

Between 12:30 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; between the hours of 1:30 a.m. and 6:00 a.m. on Saturday; and between the hours of 1:30 a.m. and 12:00 p.m. (noon) on Sunday, except for Class “M” liquor licensees, whose hours of operation shall be controlled by Section 112.36(B) of this Code.

- (5) Outside seating areas on private property, not in conjunction with outdoor seating on the public right of way, shall be fenced or screened in a manner that prevents patrons from congregating outside of the designated seating area. Fencing shall be of a wood or metal design, and may be permanently secured to the ground or removable during the period in which outdoor seating is not open. Said fencing shall also meet the design and ingress/egress provisions as required by this Code. Modification to these requirements may be varied by the Director of Community Development, if granting such approval provides for a better design and layout of the outdoor seating area.

§ 119.24 ENFORCEMENT; REVOCATION

(A) Any person, firm or corporation who violates the provisions of Sections 119.20, 119.21, 119.22 or 119.23 of this Code shall be fined not less than \$50.00 nor more than \$750.00 for each

Ord. 6713
Outdoor Cafes & Outdoor Seating

day on which the violation occurs or continues to occur. In addition, the outdoor café permit and/or the outdoor seating on the public right-of-way permit may be revoked as a result of any such violation.

(B) The Chief of Police, the Fire Chief or the Community Development Director of the Village, upon determining that the method or manner of use of the outdoor café or the outdoor seating or the conduct of persons serving within or using same pose an immediate threat to the public health, safety or welfare, shall have the power and authority to cause the outdoor dining elements to be removed immediately, and to revoke the permit issued pursuant to Sections 119.20 and 119.21 of this Code.

(Ord. 3733, passed 7/22/93, Ord. 4331, passed 6/19/97)

SECTION 2: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2012.

First reading waived by action of the Board of Trustees this 3rd day of May, 2012.

Passed on second reading this 3rd day of May, 2012, pursuant to a roll call vote as follows:

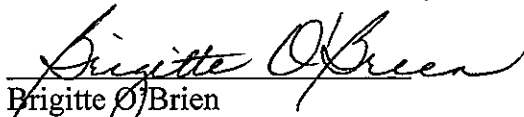
AYES : Trustees Gron, Giagnorio, Wilson, Breen, Fitzpatrick and Ware

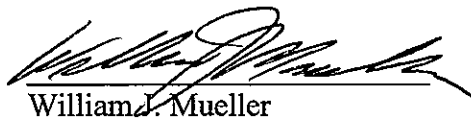
NAYS : None

ABSENT : None

APPROVED by me this 3rd day of May, 2012.


ATTEST:


Brigitte O'Brien
Village Clerk


William J. Mueller
Village President

Ord. 6713
Outdoor Cafes & Outdoor Seating

Published by me in pamphlet form this 4th day of May, 2012.


Brigitte O'Brien
Village Clerk