



## Legislation Details (With Text)

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<b>Title:</b>	Ordinance amending the Pittsburgh Code, Title 4 - Public Places and Property, Article I - Public Rights of Way Chapter 416: Obstructions, by repealing Chapter 416 in its entirety and replacing it with new language.		
<b>Sponsors:</b>	Darlene M. Harris		
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Date	Ver.	Action By	Action	Result
4/22/2016	3	Mayor	Signed by the Mayor	
4/12/2016	5	City Council	Passed Finally, As Amended	Pass
4/12/2016	5	City Council	AMENDED	Pass
4/6/2016	3	Standing Committee	Affirmatively Recommended as Amended	Pass
4/6/2016	3	Standing Committee	AMENDED	Pass
3/30/2016	3	Standing Committee	Held in Committee	Pass
3/30/2016	2	Standing Committee	AMENDED	Pass
3/23/2016	2	Standing Committee	Held in Committee	Pass
3/23/2016	2	Standing Committee	Held in Committee	
3/9/2016	2	Standing Committee	Held in Committee	Pass
3/9/2016	2	Standing Committee	AMENDED	Pass
3/1/2016	1	City Council	Read and referred	

Ordinance amending the Pittsburgh Code, Title 4 - Public Places and Property, Article I - Public Rights of Way Chapter 416: Obstructions, by repealing Chapter 416 in its entirety and replacing it with new language.

### The Council of the City of Pittsburgh hereby enacts as follows:

**Section 1.** The Pittsburgh Code, Title 4 - Public Places and Property, Article I - Public Rights of Way Chapter 416: Obstructions, as currently written, is hereby repealed in its entirety and replaced with the following language:

**Amending Title 4 - Public Places and Property, Article I - Public Rights of Way Chapter 416: Obstructions, by repealing Chapter 416 in its entirety and replacing it with the following language.**

- § 416.01      Obstruction permit required.
- § 416.02      Standards of obstruction permit issuance.
- § 416.03      Certificate of insurance.
- § 416.04      Construction mitigation plan required.
- § 416.05      Construction related street obstructions permit  
for seventeen (17) days or less.
- § 416.06      Major construction; **street** obstructions for more than eighteen (18) days; permit required.
- § 416.07      Public notice; **major street obstruction** and comment; major construction impact mitigation  
plan.
- § 416.08      ~~Emergency waiver.~~ **Exclusions**
- § 416.09      Permit fees for construction related street obstructions.
- § 416.10      Street **public right of way** encroachments.
- § 416.11      One step program.
- § 416.12      Sidewalk and Street banners.
- § 416.13      Limited duration street and/or sidewalk banners.
- § 416.14      Extension of premises.
- § 416.15      Neighborhood block parties.
- § 416.16      Permit fees for banners, block party, and extension of premises.
- § 416.17      Canopies, or projected signs, awnings.
- § 416.18      Sidewalk cafés.
- § 416.19      Market square historic district sidewalk cafés.

- § 416.20 Approval process for sidewalk café, permits and fees.
- § 416.21 Sidewalk café site plan.
- § 416.22 Sidewalk café permit annual renewal.
- § 416.23 Sidewalk café permit revocation and penalties.
- § 416.24 Effective date.
- § 416.25 Work approval.
- § 416.26 Use of constructions within public right-of-way.
- § 416.27 Extension of premise for cooking and foodservice purposes.

**§ 416.01 OBSTRUCTION PERMIT REQUIRED.**

Prior to any person placing an obstruction in the public right of way, a permit must first be obtained from the Director of Public Works or the Director's designee ("Director ")

**§ 416.02 STANDARD OF PERMIT ISSUANCE.**

The Director shall not issue any permit when any obstruction involved will unnecessarily interfere with the flow of traffic, cause a dangerous traffic condition, or if it is found by the Director to be detrimental to the health, welfare or safety of City residents.

(A) By accepting a permit, the permittee agrees, where applicable:

- (1) To remove or relocate at its own expense all installations from the public street, sidewalk or other public way upon five (5) days written notice from the City requesting the removal; and,
- (2) To not hold the City liable for removal or relocation and to indemnify it for any costs incurred as a result of removal or relocation; and,
- (3) To provide notice to the abutting and adjoining property owners of the pending placement of any obstruction(s) unless under emergency conditions, in which case a reasonable attempt shall be made to notify abutting and adjoining property owners and/or tenants prior to the installation of the obstructions; and,
- (4) Upon completion of the construction related activity the permittee agrees to restore any public

rights of ways damaged by the construction related activity to specifications set forth by the Director.

#### **§ 416.03 CERTIFICATE OF INSURANCE.**

A permittee shall procure and maintain insurance in the forms, types, and amounts prescribed by the City Solicitor for the duration of the obstruction permitted activity.

Specific insurance requirements shall be applicable to the permitted activity. In no event will the amount of coverage required for any activity requiring a permit be less than five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate, in order to protect the City against claims of third persons for personal injury, wrongful death and property damage and to indemnify the City for damage to City property arising out of the permittee's activities.

The certificate must name the City of Pittsburgh as additional insured on the certificate. Applicant, if applicable, shall also submit verification that adequate worker's compensation insurance coverage is maintained throughout permitted activity's term.

#### **§ 416.04 CONSTRUCTION MITIGATION PLAN REQUIRED.**

When an application for any construction related obstruction permit is submitted, it shall be accompanied by an Impact Mitigation Plan ("IMP"). The approved plan shall consist of both City-developed and applicant-proposed measures for reducing construction impacts on neighbors and the community.

An IMP shall include, if applicable, but not be limited to:

- (1) A site plan and complementary drawings, which identify: the location of all proposed and existing structures; the location of proposed and existing improvements; existing site conditions such as topography and trees
- (2) Screening or fencing of the construction site;
- (3) Temporary or permanent fences or walls;
- (4) Implementation of noise reduction methods;
- (5) Off-site parking areas for construction personnel;
- (6) Use of buses or vans to transport construction personnel to/from off-site parking;
- (7) Location for staging vehicles, loading/off-loading equipment, and receiving deliveries;
- (8) Implementation of air pollution reduction methods, such as dust control, use of clean fuels, retrofitting equipment to provide additional emissions control as required by city, state or federal laws;

- (9) Restricted work hours for unusually disruptive activities;
- (10) Soil export and regulation of truck and equipment traffic routes and hours of transport;
- (11) Requirements for meetings, notices and/or other methods of communicating with neighboring property owners;
- (12) Restoration of city streets and rights-of-way to include cleaning and repair of structural damage;
- (13) Use of specific equipment or construction methods and practices to reduce impacts to people, property, trees, and/or environmental critical areas.
- (14) Location of towers or other types of cranes, which illustrates swing radius

#### **§ 416.05 CONSTRUCTION RELATED STREET OBSTRUCTION PERMIT FOR SEVENTEEN (17) DAYS OR LESS.**

Any temporary construction activity or related vehicle, equipment, fence, or other object that is placed, installed or erected in or upon a roadway or sidewalk that would in any manner prevent or restrict public use of or access to a public right of way for a period of seventeen (17) consecutive days or less, and does not meet the criteria of a Major Street Obstruction, shall secure a permit from the Director. The permittee, with advice from the Director and other appropriate departments, authorities and/or agencies, shall devise an IMP to mitigate impacts. Notice of any obstruction shall be provided to affected tenants and/or property owners.

#### **§ 416.06 MAJOR CONSTRUCTION STREET; OBSTRUCTIONS FOR EIGHTEEN (18) DAYS OR MORE; PERMIT REQUIRED.**

Any temporary construction activity that results in a full road closure, a single lane closure, or the elimination of a significant number of on-street parking spaces, as determined by the Director, for a period of eighteen (18) consecutive days or more is deemed to be a major construction related project. A permit shall be secured from the Director.

#### **§ 416.07 PUBLIC NOTICE AND COMMENT; MAJOR CONSTRUCTION STREET OBSTRUCTION.**

Set forth below is the process to notify the public of a MCO **Major Street Obstruction** permit. **A permit shall not be issued by the Department of Public Works until the proper notification process is complete.**

A permit shall not be issued by the Department of Public Works until public comment and

informational meeting(s) are held and, all reasonable measures are taken to mitigate foreseeable adverse impact(s);

(A) Applicant shall first provide notice to the Council Member who represents the area where the obstruction will occur. . Then, they must provide written notice, by Certified Mail, to all tenants and/or property owners within the impacted area, as determined by the Director. The notice shall include:

**(B) At least ten (10) days prior to the start of the Major Street Obstruction, the applicant shall post placards, visible from the public right of way, which provide information about the pending obstruction, including:**

- 1. The portion of the roadway that will be closed**
- 2. The duration of the obstruction**
- 3. The applicant's contact information**

**(C) Placards shall be placed every 50ft. along the obstruction site. Applicant must provide proof that placards were placed along the obstruction site before receiving the permit.**

A copy of the proposed mitigation plan;

A self-addressed return envelope and, an email address for the applicant to allow addressee's to provide comment on the proposed Impact Mitigation Plan;

(C) A complete mailing, mailing list and certified mail receipt(s) shall be provided to the Director;

(D)The public comment period shall end seven (7) business days following the required mailing. Valid comments sent via the U.S. Postal Service shall be post marked within the seven-day period. Valid electronic mail shall be dated within the seven (7) day period; All comments shall be provided to the Director. If affected tenants and/or property owners, or a member of Council request a public meeting to discuss the proposed obstruction, the applicant must set forth a date, time, and place within a reasonable distance of the impacted area to take public comment.

(E)The Director shall give preliminary approval to the applicant's proposed Impact Mitigation Plan before it is made available to the public. After the and end of comment period, the Director of Public Works shall approve the Impact Mitigation Plan, with any and all reasonable adjustments or amendments.

(1) Once the Impact Mitigation Plan is approved, it shall be sent by first class mail to all tenants and/or property owners within the impacted area;

(2) Once the Major Street Obstruction permit is issued, it is valid for a period of time not to exceed six (6) months from the date of approval. If project work related to the Major Street Obstruction does not commence within six (6) months the permit shall expire. If work does commence within six (6) months, the permit may be renewed in six (6) month increments until work is complete.

**(FD)** Prior to the issuance of a Major Construction **Street** Obstruction Permit, the Director shall provide written notice to the City Clerk to be read, received, and filed by City Council as a communication. During

City Council's annual recess, the Director may approve Major Street Obstruction Permits before the notice is read, received and filed by Council. The Notice shall include:

- (1a) Name and address of the permit applicant;
- (2b) Location and purpose for the Major Street Obstruction;
- (3c) Anticipated date **and term** of the Major Street Obstruction;
- (d) term of the Major Street Obstruction permit;
- (e) a copy of the proposed Impact Mitigation Plan; and,
- (f) a list of addressees notice has been provided to and, a single copy of any written notice(s) sent by the applicant;

**E) Once the Major Street Obstruction permit is issued, it is valid for a period of time not to exceed six (6) months from the date of approval. If project work related to the Major Street Obstruction does not commence within six (6) months the permit shall expire. If work does commence within six (6) months, the permit may be renewed in six (6) month increments until work is complete.**

#### **§ 416.08 EMERGENCY-WAIVER. Exclusions**

**The provisions of Section 416.07 shall not apply** In the event of an emergency, **or to any construction project in the public right of way by a utility which provides electricity, natural gas, water and/or wastewater, or telecommunication services to the public.** Public notice of any Street Obstruction is waived. Written notice of the issuance **of** an Street Obstruction permit in response **to** in an emergency, shall be provided to Council by the Director, describing the nature of the emergency, within forty-eight (48) hours after the issuance of the said permit.

#### **§416.09 PERMIT FEES FOR CONSTRUCTION RELATED STREET OBSTRUCTIONS.**

**Prior to the issuance of any permit for minor street obstruction, the following fees shall be:**

	TYPE OF MAJOR STREET OBSTRUCTION	FEES
(a)	Temporary barricade, each 15-day period:	\$6.00 per 200 square foot of space per day with a minimum fee of \$90.00 up to a maximum fee of \$1,800.00/per month.

(b)	Walkway, each 15-day period (uncovered)	\$1.00 per lineal foot. \$30.00 minimum fee.
(c)	Cutting curb (no permit shall be issued for curb cut in excess of 36 feet. Residential: Non-residential:	\$75.00 \$15.00 per lineal foot with a minimum fee of \$75.00.
(d)	Erecting, replacing and/or relocating utility pole and/or anchors:	\$50.00 plus an additional \$100.00 per pole or anchor if old pole is not removed within 60 days.
(e)	Erection of scaffold over roadways and sidewalks, each 30-day period: Residential: Non-residential	\$100.00. \$0.50 per linear foot times the number of stories with a minimum fee of \$100.00.
(f)	Repairing or reconstruction of sidewalk: Residential Non-residential	\$30.00 flat fee. \$1.00 per linear foot with a <b>minimum fee of \$30.00</b>
(g)	Temporary bridge, 15 days:	\$150.00.
(h)	Temporary placement of machinery or equipment in roadway for each 15-day period:	\$5.00 per day, per piece of machinery or equipment. Minimum fee of \$75.00
(i)	Staging area:	\$5.00 per 200 square foot area of street space per day.
(j)	Temporary Dumpsters: Commercial Residential	\$100.00 per month (no weekly rate). \$25.00 per week.
	Permanent Dumpsters:	\$375.00 per year.

#### §416.10 PUBLIC RIGHT OF WAY ENCROACHMENTS.

(A) The purpose of this section is to regulate the placement of structures within or upon any public right of way or public easement and to establish standards and procedures for the vacation of any public easement or public right of way, in order to assure adequate and safe public access to the streets, appropriate utilization of public easements, and for the just disposition of property determined to be unnecessary to meet public needs.

(B) *Encroachment*, for the purposes of this section, means a private improvement, structure or obstruction extending into or located within, upon, above or under any public right of way or public easement. *Structure* means anything constructed or erected with a fixed location below, on or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies and canopies.

(C) *Obstruction* for the purpose of this section includes, without limitation:



- (1) A fence, hedge or wall placed nearer than permitted to any public sidewalk or path;
- (2) Any landscaping, structure or fence within the corner sight lines of an intersection that obstructs a vehicle operator's vision or, within its prolongation, within the right of way;
- (3) A tree or bush or other plant or a structure of any sort which projects beyond the property line of property abutting the right of way of any street, sidewalk, path or alley onto or over the public right of way and obstructs the view of traffic, obscures any traffic control device, prevents pedestrian use of any part of a street, sidewalk, path or alley, or otherwise constitutes a hazard to drivers or pedestrians. Without limitation, a dead bough of a tree located on a person's property but overhanging public property constitutes such a hazard;
- (4) Cement, concrete, piping or other material placed in a gutter to aid vehicles in driving over a curb or for any other purpose.

(D) Except for sidewalk cafés (**see § 416.17**) no person shall erect, construct, or maintain a permanent bridge, tunnel, vault or other encroachment in any public right-of-way without first obtaining a resolution from Council and permission from the Department of Public Works.

(E) Application therefore shall clearly indicate the purpose and proposed use of the encroachment, shall include a plan identifying the portion of the right-of-way in which the encroachment is requested, and shall include other information as may be required by the Director to demonstrate compliance with the Pittsburgh Code and with requirements for encroachments established by the Director.

(F) Once granted, such encroachment and its use shall not be changed, modified or altered without reapplication to Council and the Department. The Director shall notify Council on a weekly basis of all individuals or entities, which have made formal application for an encroachment, easement or vacation of a city street or right-of-way.

(G) The City Clerk shall notify the Director of the approval by Council of the resolution authorizing the encroachment permit. However, the Director shall not issue the permit until the applicant has paid the applicable fee, obtained all applicable zoning approvals, submitted proof of insurance in coverage's and amounts as determined by the City Solicitor, and supply such other information as may be required and approved by the Director.

#### **§ 416.11 ONE STEP PROGRAM.**

When a person using a wheelchair or scooter or a person with a physical impediment wants to enter a store, just one step in front of the entrance makes it impossible for him or her to offer patronage to the business. However, the Americans with Disabilities Act, which was passed in 1990 and took effect in January 1992, promises the user a right of safe entry to places of public accommodation. The purpose of this section is to accommodate both property owner and persons with disabilities and to make Pittsburgh accessible to all.

- (A) No more than one (1) step or unusable ramp in front of one (1) of the following types of facilities is being replaced by a ramp or sidewalk modification as a way of providing accessibility to persons

with disabilities:

1. An indoor recreation and entertainment facility;
2. A restaurant;
3. A retail sales and service facility as defined in Chapter 911 of Title Nine of the Pittsburgh Code at sections [911.02](#) and [911.04](#);
4. A facility providing laundry services as defined in Chapter 911 of Title Nine of the Pittsburgh Code at sections [911.02](#) and [911.04](#);
5. A vehicle/equipment sale or repair facility as defined in Chapter 911 of Title Nine of the Pittsburgh Code at sections [911.02](#) and [911.04](#);
6. A retail nursery;
7. A grocery store;
8. A firearms business establishment as defined in Chapter 911 of Title Nine of the Pittsburgh Code at sections [911.02](#) and [911.04](#);
9. A check cashing facility;
10. A pawn shop.

B. Plans for the One Step Program that encourages changes to the storefront that will follow removal of the step or unusable ramp are compliant with the latest version of the ICC/ANSI A117.1 Code. However, all other guidelines described in this section will still apply.

C. Special Exception: DPW Encroachment Fee will be waived when adhering to the One Step Program requirements.

(1) By accepting a permit, the permittee agrees where applicable:

- (a) To remove or relocate, at its own expense, all installations from the public street, sidewalk or other public way upon thirty (30) days' written notice from the City requesting the removal; and
- (b) To hold the City non-labile for removal or relocation and to indemnify it for any costs incurred as a result of the removal or relocation; and
- (c) To notify abutting and adjoining property owners of the encroachment or obstruction thirty (30) days prior to its installation.

## **§ 416.12 SIDEWALK AND STREET BANNERS.**

The Director shall promulgate regulations governing size and construction of street and sidewalk banners and, the application process to place said banners.

Prior to institution of any additional regulation governing street or sidewalk banners the Director shall inform the public and City Council, in writing, of said regulations.

The Director shall consult with and abide by any legal requirements set forth by the City of Pittsburgh's Art Commission.

## **§ 416.13 LIMITED DURATION STREET AND/OR SIDEWALK BANNERS.**

To support public awareness of significant city-wide and neighborhood events, such as non-religious holidays, vehicle and/or pedestrian races, visiting dignitaries, and other non-political, not for profit sponsored events, promoting the city and the wellbeing of its citizens, the Director may temporarily permit street and sidewalk banners as defined in this Chapter of the City Code.

Banners shall to be hung with the Director's approval and in compliance with all appropriate regulations for the duration of the above-mentioned events and subject to the following conditions:

(A.) The limited duration permit for sidewalk pole banners shall be issued by the City's Department of Public Works.

(B) Specific placement of pole and street locations shall be designated on the limited duration banner permit and shall not exceed three hundred fifty (350) banners. A list of such locations shall be available at the Department of Public Works.

(C) Limited duration permit holders shall be required to hang and remove all banners. Banners not removed by the permittee may be subject to removal by the City. All costs associated with cleanup and removal shall be assessed to the limited duration banner permit holder.

The sidewalk banners shall conform in size and construction requirements with banner regulations promulgated by the Director including but, not limited to, requirements for hanging said banners in order to protect the public's safety.

The banners may include announcements of the above-mentioned events and may include commercial sponsor logos to the extent that such advertising comprises no more than thirty-three (33) percent of the banner face.

Said banners shall not be erected more than thirty (30) days prior to the event and shall be removed within fifteen days of the event. The Director may grant an extension of time for removal in the case of inclement weather or other events that reasonably delay removal.

The permit fee for each banner permitted shall be Ten Dollars (\$10.00) per banner. Any additional hardware required to hang the banner is the responsibility of the event sponsor. Any such hardware or other fixtures required to hang banners shall be the responsibility of the event sponsor and shall approved by the Director prior to installation.

If the permit holder agrees to leave banner-hanging hardware in place, valued up to fifty dollars (\$50.00) per set, for the permanent use of the City, the value of such hardware shall be deducted from the permit fee.

#### **§ 416.14 EXTENSION OF PREMISES.**

The Director shall issue regulations and set permit fees governing the extension of premises for the commercial display of merchandise and the setting out of furniture on the sidewalk and cart ways of the city.

**§416.15 NEIGHBORHOOD BLOCK PARTIES.**

Neighborhood block party events are welcomed and encouraged by the City of Pittsburgh as they promote the health and wellbeing of city residents. The Director shall promulgate regulations and set permit fees for the closure of portions of the public rights of way for neighborhood block parties. Fees for block parties shall be maintained at affordable rates and need not be calculated to recover actual costs to the city.

**§416.16 PERMIT FEES FOR BANNERS, BLOCK PARTY, EXTENSION OF PREMISIS.**

(k)	Pole banners:	
	1-5 banners:	\$150.00
	6-10 banners:	\$375.00
	11-20 banners:	\$900.00
	21-30 banners:	\$1,552.50.
(l)	Banners over streets:	
	1-5 banners:	\$150.00.
	6-10 banners:	375.00.
	11-20 banners:	900.00.
	21-30 banners:	1,552.50.
	6 months to 1 year:	150.00 per month.
	Festivals: Neighborhood organizations for self-installed banners.	\$100.00 fee for for-profit organizations \$10.00
(o)	Block party obstruction permit:	\$25.00.
(p)	Extension of premises:	\$25.00 per year.

The Department of Public Works shall waive the banner fee for any U.S. or official government flag placed in the public right-of-way.

**§416.17 CANOPIES, OR PROJECTED SIGNS, AWNINGS BALCONIES.**

Any canopy, projected sign, awning or other building fixtures and/or portions of a structure, that projects into the public right of way shall be governed by the provisions of the City's Zoning Code of Ordinance. The Director shall assess a one-time initial permit fee for One Hundred and Fifty dollars (\$150.00)

**§416.18 - SIDEWALK CAFÉS (DEFINITION).**

(a) A sidewalk café is defined as an extension of the services of an existing establishment, including, but not limited to, serving food and beverages for consumption within an existing building, to the extent that food and beverages are permitted to be served and consumed at tables placed on the public sidewalk adjacent to

and within the confines of the frontage of that portion of the building in which the establishment is situated. A sidewalk café contains readily removable tables and chairs, is enclosed by rope and stanchion unless some other barrier system is approved by the City as an architectural design element, and shall be otherwise open to the air.

(b) The sidewalk café shall be located on the public right-of-way adjoining the property owner's property and in a location where it shall be determined to be appropriate by this ordinance, and all applicable related ordinances.

(Ord. No. 4-2009, § 1, eff. 1-1-10)

#### **§ 416.19 - MARKET SQUARE HISTORIC DISTRICT SIDEWALK CAFÉS.**

The City of Pittsburgh has designated a certain geographic area in the City of Pittsburgh as the Market Square Historic District (MSHD) pursuant to Title Eleven, Chapter 1101 of the City Code, in order to facilitate the revitalization of the MSHD, the City of Pittsburgh desires to encourage the establishment of a unique dining experience in the MSHD. Notwithstanding a contrary provision in this ordinance, the following shall apply to any sidewalk café in the MSHD which is located on a public sidewalk of at least fifteen (15) feet measured from the front of the sidewalk café owner's building to the public road.

- (a) The sidewalk café shall establish barriers on the sides of the café which border other private property lines, but shall not establish barriers between the front of the café and the public sidewalk. The barriers shall be consistent with the design guidelines detailed in part (f).
- (b) So long as the sidewalk café complies with all parts of **416.25** (~~416.14~~) the sidewalk café may leave in place the furniture and barriers located in the sidewalk café twenty-four (24) hours a day, seven (7) days a week from April 1st until October 31st. Outside this period the furniture and barriers must be removed from the sidewalk and placed in storage when the sidewalk café is not open for business.
- (c) An establishment which operates a sidewalk café shall be permitted to play live or recorded music outside in the sidewalk café between the hours of 10:00 a.m. and 11:00 p.m. so long as the music enhances the café experience and does not exceed fifty-five (55) dB.
- (d) The owner or tenant of a property which operates a sidewalk café as well as the owner or tenant of an immediate neighbor of a property which operates a sidewalk café shall not place or leave trash or trash receptacles in front of their property between the hours of 7:00 a.m. and 11:59 p.m.
- (e) Menu boards consistent with design guidelines detailed in part (f) shall be permitted in the sidewalk café. No advertising boards, banners or other obstructions shall be permitted in the sidewalk café or in the area of the public sidewalk between the sidewalk café and the public road.

- (f) Furniture, barriers and menu boards for sidewalk cafés in the MSHD shall conform to the Market Square Historic District Sidewalk Café Design Guidelines as maintained by the Historic Review Commission of the City of Pittsburgh (HRC). An exception to these guidelines must be approved by the HRC.

(Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§416.20 - APPROVAL PROCESS FOR SIDEWALK CAFÉ, INCLUDING PERMITS AND FEES.**

A proprietor wishing to establish a sidewalk café must follow the process described below. Responsibilities of the departments include, but are not limited to, those described. For expediency and to benefit the applicant, each department shall complete its responsibilities within ten (10) days.

- A. *Department of Public Works (DPW).* At DPW, the proprietor obtains an application form for a permit to encroach on the public right-of-way with a sidewalk café. A checklist of sidewalk café requirements, delineating the steps to be followed in acquiring a sidewalk café permit, is issued to the applicant.
- B. *Department of Public Works.* Applicant returns to DPW with a completed application. As part of the application for a sidewalk café, applicant shall submit a site plan conforming to the specifications in Sections **416.20 (416.09)** and 922.01.d.1. The proposed site plan for the sidewalk café must be attached to the required permit application. Sample plans are available from DPW. The permit fee is due at this time, at one dollar (\$1.00) for each square foot of café area (Gross square footage). Also due at this time is a certificate from the proprietor's insurance company, naming the city as co-insured, with minimum amounts of one hundred thousand dollars (\$100,000.00) to three hundred thousand dollars (\$300,000.00)-public liability and fifty thousand dollars (\$50,000.00)-property. DPW issues a printed notice that the application has been accepted, but not approved.
- C. *Zoning.* DPW sends the applicant to the zoning counter, with the application, and with DPW's notice of acceptance. The application is registered and the applicant pays a one-time filing fee at the zoning counter. Zoning will verify that the applicant has a valid certificate of occupancy for the primary use of the property. A certificate of occupancy for a sidewalk café will not be granted without a valid certificate of occupancy for the primary use.

The zoning department reviews the site plan design of the proposed sidewalk café. If disapproved, the applicant is given an opportunity to revise the site plan to meet zoning's requirements. If the proposed sidewalk café is to be in an historic district, there will be an additional level of review by the local body that provides historic review for that site. Zoning marks the site plan as approved and directs the applicant to the Department of Permits, Licensing, and Inspection.

- D. *Department of Permits, Licensing, and Inspection (PLI).* PLI checks the applicant's record for violations. Any violations must be rectified before a sidewalk café permit can be issued. No permit can be issued unless the proprietor has a valid occupancy permit for the establishment that the sidewalk café will abut. Upon being cleared of violations, and consistent with the requirement for commercial venues, the applicant must submit a site plan, prepared and sealed by a licensed architect or engineer, to PLI's Plan Examiner. This plan must contain the sidewalk café seating layout, aisles, enclosure, ADA requirements, and means of egress, including egress from the main restaurant to the curb. The Plan Examiner will review the site plan for compliance with City Code and for compliance with the

Americans with Disabilities Act (ADA). The applicant then pays a one-time fee for the certificate of occupancy for a sidewalk café. PLI will inspect and issue the certificate of occupancy for a Sidewalk Café, if approved. A copy of the site plan will be given to the applicant to be maintained at the establishment. The applicant will receive a copy of the certificate of occupancy by mail. Upon completion of PLI's process, PLI will forward the sidewalk café application packet, including DPW's notice of acceptance, the certified site plan, and a copy of the certificate of occupancy for a sidewalk café, to DPW.

- E. *Department of Public Works.* A DPW representative conducts a field survey to check the accuracy of information submitted in the proprietor's application for a sidewalk café.
- F. *City Council.* When it is deemed that the application is completed fully and correctly, the Director of Public Works submits the application to the District Council Person. The completed checklist of sidewalk café requirements is included in the packet provided to the District Council Person. The City Council Member representing the district where the café is proposed shall acknowledge, in writing, having reviewed the application, prior to issuance of the permit.
- G. *Department of Public Works.* The Director of Public Works notifies the applicant of the City's decision. If approved, the sidewalk café permit is issued by the Department of Public Works. A DPW representative demarcates the margins of the approved sidewalk café on the sidewalk. If the proprietor wishes to change the sidewalk café from the approved site plan, a new application and review process is required.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§416.21 - SIDEWALK CAFÉ SITE PLAN.**

In furtherance of the intent of this legislation that sidewalk cafés shall enhance the aesthetic appeal and community activity where they are located, especially in historic business districts, the following requirements are placed on the design and operation of sidewalk cafés.

- 1. Site plans shall include:
  - (a) Size of encroachment onto publicly owned sidewalk.
  - (b) Sidewalks up to ten (10) feet in width shall leave four (4) feet of sidewalk clear of obstructions to allow unimpeded pedestrian and disabled pedestrian traffic, in accordance with Americans with Disability Act (ADA) standards. Sidewalks over ten (10) feet in width shall leave five (5) feet of sidewalk clear of obstructions to allow unimpeded pedestrian and disabled pedestrian traffic, in accordance with the Americans with Disability Act (ADA) standards. No obstruction shall be placed within eighteen (18) inches of the face of any curb, within five (5) feet of any fire exit, fire hydrant, or building corner.
  - (c) The width of the storefront. A sidewalk café is limited to the width of the storefront of the establishment with which the area is associated. The area of ingress and egress is to be shown.
  - (d) Gross square footage.

- (e) Compliance with federal accessibility standards, to accommodate persons with disabilities.
- (f) Compliance with Building Code standards for egress from the café and from the establishment, in case of fire or other emergency.
- (g) City and other approved obstructions are shown outside the required ADA clear passageway. Obstructions shall include, but not be limited to, light poles, traffic signal poles, fire hydrants, utility structures, bike racks, parking meters, street trees, and street signs. Further, the sidewalk café cannot obstruct the clear sight distance for vehicles or access or crossings for the disabled.
- (h) The seating, table layout, and barrier system, to scale, along with passageway/aisle clearances.

2. Design aspects to be included in the site plan are:

- (a) Sidewalk cafés shall have a rope and stanchion as an enclosure, unless some other barrier system is approved by the City as an architectural design element.
- (b) Sidewalk cafés are comprised of tables for dining. There shall be no standing room. No service equipment is permitted.
- (c) Furnishings for sidewalk cafés shall consist solely of moveable tables, chairs, and decorative accessories. There shall be at least one (1) table that is ADA compliant.
- (d) The square footage of the sidewalk café area shall determine the number of permitted tables and chairs based on the Building Code requirements in effect at the time of the initial application. The proprietor is also required to update sidewalk café seating to meet Building Code requirements in effect at the time of annual renewal.
- (e) If awnings are proposed, they shall be adequately secured and retractable. If umbrellas are proposed, they are to be included in the submitted site plan, and must meet ADA standards for encroachment into the public right-of-way, that is, umbrellas must be totally within the sidewalk café area and the edges and prongs must leave the path of travel clear and unobstructed.
- (f) Sidewalk cafés shall be at the same elevation as the public sidewalk. Paint, carpeting, artificial turf, or other floor coverings of any kind shall not be permitted at any time in the sidewalk café area.
- (g) No signage shall be allowed in any sidewalk café, or on the adjacent sidewalk, with the exception that small, lighted menu boards may be permitted.
- (h) Sidewalk café uses shall be subject to Pittsburgh Zoning Code standards, as stated at Pittsburgh City Code § 911.04.A.68

3. General requirements.

- (a) A permit to operate a sidewalk café shall only be granted to an establishment with a valid retail food license.



4. Operation.

- (a) Operation shall be during the normal business hours of the permittee, but no earlier than 7:00 a.m. and no later than 2:00 a.m.
- (b) Furnishings must be kept in a state of good repair and in a clean and safe condition at all times
- (c) Where rope and stanchion is used as the barrier, furnishings and rope and stanchion must be off the sidewalk by close of business, but no later than 2:00 a.m. each evening. Rope and stanchion must also be removed at that time.
- (d) Sidewalk café permits are not transferable.
- (e) Permittees are bound by all applicable rules for alcohol and tobacco consumption, including state statutes and City ordinances.
- (f) The sidewalk surface in the sidewalk café area shall be maintained in good repair.
- (g) Busing stations, trash receptacles, food preparation stations, cashier stations, and music shall not be permitted in the sidewalk café.
- (h) Sanitary cleaning of the sidewalk café dining area before, during, and after food service is required.
- (i) The proprietor shall maintain on-site copies of both the PLI certificate of occupancy for a sidewalk café and the certified site plan. Both shall be presented on request from an enforcement official from Public Safety, DPW, PLI, or other authorized representative of the City. The DPW sidewalk café permit shall be displayed in the front window, clearly visible from the street.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

**§416.22 - SIDEWALK CAFÉ PERMIT ANNUAL RENEWAL.**

The annual permit runs from January through December, at which time the proprietor is required to pay the annual renewal fee of twenty-five dollars (\$25.00) at DPW.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

**§ 416.23 - PERMIT REVOCATION AND PENALTIES.**

(a) Any person who violates any of the provisions of this article or regulations promulgated hereunder shall be subject to a fine of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) for each offense, and each day such a violation continues shall be deemed a separate and distinct offense. The Department of Public Works, the Department of Permits, Licensing, and Inspection, and the Bureau of Police provide enforcement if the permit holder violates the terms of the permit.

(b) Any sidewalk café or other business activity, including signage, on publicly owned sidewalk in front of a business establishment without a valid permit is subject to removal from the public way by the Department of Public Works.

(c) In addition to fines and other penalties as provided for herein, three (3) or more violations of any provision of this article or regulations promulgated hereunder within a permit period shall subject the permittee to revocation of the sidewalk café permit by the Department of Public Works.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§ 427.24 - EFFECTIVE DATE.**

(a) This chapter shall become effective January 1, 2010.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 13-2009, § 1, eff. 6-24-09; Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§ 416.25 WORK APPROVAL.**

Any persons obtaining a permit pursuant to this Chapter shall be required to do the work in the manner specified by the Department of Public Works and subject to its approval.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§ 416.26 USE OF CONSTRUCTIONS WITHIN PUBLIC RIGHT-OF-WAY.**

The City shall have the right and power at all times to place on utility poles or any underground system located in the public right-of-way, signs, police and fire communications, street lights, cables, devices and apparatus, and to place, replace, alter, repair or replenish the same, without any cost to the city.

(A) No person or utility company shall use any pole, bridge or underground system within the public right-of-way for any purpose except that which is necessary for pertinent utilities without first obtaining the permission of the Director of Public Works.

(Ord. No. 4-2009, § 1, eff. 1-1-10; Ord. No. 18-2010, § 1, eff. 6-14-10)

#### **§ 416.27 EXTENSION OF PREMISE FOR COOKING AND FOODSERVICE PURPOSES.**

*Definition.* As used herein includes any restaurant, grocery store, café, or deli that wishes to use the public sidewalk for the purposes of outdoor cooking and other related foodservice. Outdoor cooking includes, but is not limited to outdoor grilling. Related foodservice includes selling, sampling, and displaying of food

cooked/prepared outside of the business premises.

(A) Tables and chairs require a separate sidewalk café permit.

(B) *Permit Required.* No business shall engage in the act of extending their business premise onto the public sidewalk for the purpose of outdoor cooking and other related foodservice without first obtaining a permit from the Department of Public Works (DPW). The permit shall be prominently displayed in a visible location from the outside food service operation.

(C) *Permit Fee.* Prior to the issuance of any permit for extension of premise for cooking and foodservice purposes, the following fees shall be paid:

Annual Two Hundred Fifty Dollar (\$250.00) fee for the extension of premise cooking on a public sidewalk

(D) *Information required for DPW approval.* The following information is required to be provided to the Department of Public Works prior to issuance of a permit:

(1) A description of the nature of business.

(2) The name, address, and phone number of the business.

(3) Contact information of the proprietor including email address & cell telephone number.

(4) Daily and Weekly hours of operation.

(5) An insurance certificate from the proprietor's insurance company, naming the city as co-insured, with minimum amounts of One Hundred Thousand Dollars (\$100,000.00) to Three Hundred Thousand Dollars (\$300,000.00)-public liability and Fifty Thousand Dollars (\$50,000.00) property and, shall further provide that the policy shall not terminate or be cancelled prior to the expiration date of the permit without thirty (30) days' written notice to the Director of the Department of Public Works.

(6) A notarized consent form from the abutting building owners left and/or right of the building housing the permitted business.

(E) *Loud Noises, Speaking Devices, Signs, Goods, Smoke, and Strong Odors.*

(1) No business, nor any person on their behalf, shall blow a horn, or use any other device, except ring a bell, including any loud speaking radio or sound amplifying system upon any of the streets of the city or upon any private premise in the city where sound or sufficient volume is emitted or produced therefrom to be capable of being plainly heard on the streets, alleys, parks, or other public spaces, for the purpose of attracting attention to any goods, wares, or merchandise which the business proposes to sell.

(2) No employee, or other individual on behalf of the business while on the sidewalk or public right-of-way, shall create excessive smoke or strong odors through the preparation of goods that are cooked outdoors.

(F) *Permitted Locations.*

(1) Prior to the business obtaining a permit from the Department of Public Works, the Department of Public Works shall review the application for safety and appropriate use of public space.

(2) The Director of the Department of Public Works or his/her assign shall compile a list of permitted locations where the presence of cooking and foodservice on the sidewalk are approved. The Director may consider the width of the sidewalk; the proximity and location of existing street furniture, including but not limited to signposts, lamp posts, parking meters, bus shelters, benches, phone booths, and newspaper vending devices; the presence of bus stops, truck loading zones, and taxi stands; pedestrian and vehicular traffic patterns; and other factors he/she deems relevant. The Director may modify the list as he/she deems necessary.

(G) *Permit Application and Duration.* Permits shall be valid for a period of one (1) year and may be renewed prior to expiration upon the payment of the permit fee, provided all the requirements of this chapter are met. The annual permit runs from January through December, at which time the proprietor is required to pay the annual fee of two hundred fifty dollars (\$250.00) at DPW. The annual permit fee shall not be pro-rated if obtained after the 1st of the year.

(H) *Use of Public Space.*

(1) No merchant shall use the sidewalk to the extent that there is not a free and clear passage less than five (5) feet wide.

(2) In order to maintain a clear passage of at least five (5) feet wide on the sidewalk, all cookware, equipment, and other items owned by the business stationed on the public sidewalk should be contained and not interfere in any way with the five (5) feet wide area.

(3) If the business intends to use the public space for outdoor seating in addition to cooking purposes, a new and separate sidewalk café application must be submitted in accordance with all City zoning guidelines for the business' location and all appropriate permits from the Department of Public Works.

(4) The merchant's outdoor equipment and set-up must also include a sanitary receptacle for the purposes of controlling the waste generated from the cooking.

(5) Businesses are not allowed to use or block in any way metered parking, other restricted parking zones, and unloading zones.

(6) Space must adhere to all ADA standards.

(I) *Hours of Operation.* Operation shall be during the normal business hours of the permittee, but no earlier than 10:00 a.m. and no later than 10:00 p.m.

(J) *Approval Process.*

(1) When it is deemed that the DPW application is completed fully and correctly, the Director of Public Works submits the application to the District Council Person. The City Council Member representing

the district where the outdoor cooking or foodservice location is proposed shall, in writing, approve or recommend that the application be forwarded to a formal session of City Council to be discussed by all members.

(2) All other applicable certificates of approval, and a certificate of approval from the County Health Department must be obtained before operations can commence.

*(K) Permit Revocation and Penalties.*

(1) Any person who violates any of the provisions of this article or regulations promulgated hereunder shall be subject to a fine of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) for each offense, and each day such a violation continues shall be deemed a separate and distinct offense. The Department of Public Works, the Department of Permits, Licensing, and Inspection, and the Bureau of Police shall provide enforcement if the permit holder violates the terms of the permit. Three (3) or more violations of any provision of this article or regulations promulgated hereunder within a permit period shall subject the permittee to revocation of the permit by the Department of Public Works.

(2) Any outdoor cooking on public space including but not limited to the sidewalk in front of a business establishment without all valid permits and certificates is subject to immediate removal from the public way by the Department of Public Works and City of Pittsburgh Police.

(Ord. No. 32-2010, § 1, eff. 8-24-10)