



CITY COUNCIL

Committee of the Whole

Monday, April 30, 2007

Agenda

5:00p.m.

- I. Security Camera System** **5:00p.m.**
 - Annual Maintenance and Operation Costs
 - Locations
 - Citizen Privacy

- II. Initiative and Referendum Ordinance** **6:30p.m.**
 - Charter Board Advisory Opinion
 - City Clerk and Solicitor Comments

- III. Review of Sidewalk Café Ordinance** **7:00p.m.**
 - Appropriate Permit Fee
 - Possible Amendments:
 - a. Fee prorate;
 - b. Fee waiver for subsequent seasons.

- IV. Executive Session (Personnel-Solicitor)**



**Reading Police
Department
Video Safety Unit**

Values, Policies, and Practices

(DRAFT)

Mission

To lead and support residents, businesses, organizations, and institutions in the City of Reading in their efforts to improve community safety and quality of life using a video safety system and the principles of crime prevention through environmental design.

Statement of Values and Code of Ethics

Introduction

As a matter of fundamental principle, the City of Reading Police Department Video Safety Unit (RPDVSU) should adhere to the highest ethical standards because it is the right thing to do. As a matter of pragmatic self-interest, the RPDVSU should do so because public trust in our performance is the bedrock of our legitimacy. Taxpayers, donors and volunteers support government and community organizations because they trust them to carry out their missions, to be good stewards of their resources, and to uphold rigorous standards of conduct.

The RPDVSU must earn this trust every day and in every possible way. But the RPDVSU is, at its foundation, people, and it is up to the people of the Reading Police Department — leaders, staff, and volunteers—to demonstrate their ongoing commitment to the core values of integrity, honesty, fairness, openness, respect, and responsibility.

Adherence to the law is the minimum standard of expected behavior; but the RPDVSU must do more, however, than simply obey the law. We must embrace the spirit of the law, often going beyond legal requirements and making sure that what we do is matched by the public's understanding about what we do. Transparency, openness and responsiveness to public concerns must be integral to our behavior.

Statement of Values

Any Code of Ethics is built on a foundation of widely shared values. The values of the City of Reading Police Department Video Safety Unit include:

- Commitment to the public good;
- Accountability to the public;
- Commitment beyond the law;
- Respect for the worth and dignity of individuals;
- Respect for the privacy of individuals according to law;
- Inclusiveness and social justice;
- Respect for pluralism and diversity;
- Transparency, integrity and honesty;
- Responsible stewardship of resources; and,
- Commitment to excellence and to maintaining the public trust.

These values lead directly to the Code of Ethics that follows. The values inform and guide the actions that the City of Reading Police Department will take in developing its policies and in forming its practices.

The Code of Ethics for the RPDVSU

I. Personal and Professional Integrity

All staff, board members and volunteers of the RPDVSU will act with honesty, integrity and openness in all their dealings as representatives of the city police. The RPDVSU promotes a working environment that values respect, fairness and integrity.

II. Mission

The RPDVSU has a clearly stated mission and purpose, approved by the Mayor and police chief, in pursuit of the public good. All of its programs support that mission and all who work for or on behalf of the RPDVSU understand and are loyal to that mission and purpose. The mission is responsive to the constituency and communities served by the RPDVSU and of value to the society at large.

III. Governance

The RPDVSU is a unit of the Reading Police Department, and the police chief is responsible for setting the mission and strategic direction of the RPDVSU and has oversight of the finances, operations, and policies. The police chief:

- Ensures that its members have the requisite skills and experience to carry out their duties and that all members understand and fulfill their governance duties acting for the benefit of the RPDVSU and its public purpose;
- Ensures that the RPDVSU conducts all transactions and dealings with integrity and honesty;
- Ensures that the RPDVSU promotes working relationships with citizens, staff, volunteers, and program beneficiaries that are based on mutual respect, fairness and openness;
- Ensures that the RPDVSU is fair and inclusive in its hiring and promotion policies and practices for all members, staff and volunteer positions;
- Ensures that policies of the RPDVSU are in writing, clearly articulated and officially adopted;
- Ensures that the resources of the RPDVSU are responsibly and prudently managed; and,
- Ensures that the RPDVSU has the capacity to carry out its programs effectively.

IV. Legal Compliance

The RPDVSU is knowledgeable of and complies with all laws, regulations and applicable international conventions.

VI. Openness and Disclosure

The RPDVSU provides comprehensive and timely information to the public, the media, and all stakeholders and is responsive in a timely manner to reasonable requests for information. All information about the RPDVSU will fully and honestly reflect the policies and practices of the City of Reading Police Department.

VII. Program Evaluation

The RPDVSU regularly reviews program effectiveness and has mechanisms to incorporate lessons learned into future programs. The RPDVSU is committed to improving program and organizational effectiveness and develops mechanisms to promote learning from its activities and the field. The RPDVSU is responsive to changes in its field of activity and is responsive to the needs of its citizens.

VIII. Inclusiveness and Diversity

The RPDVSU has a policy of promoting inclusiveness and its staff, members and volunteers reflect diversity in order to enrich its programmatic effectiveness. The RPDVSU takes meaningful steps to promote inclusiveness in its hiring, retention, promotion, member recruitment and constituencies served.

Video Safety System Description

The Reading Model

This project seeks to create a safety network in the City of Reading by increasing “eyes on the street.” This network will consist of a camera system that monitors public spaces plus includes making improvements in the physical environments of the downtown and neighborhoods. Natural surveillance is enhanced by improving lighting, landscaping and see-through fencing. These elements will provide additional surveillance that promotes better behavior by citizens who might otherwise commit crimes and make good citizens more comfortable with their surroundings. The use of cameras and promoting crime prevention through environmental design (CPTED) has proven to be effective in curbing vandalism, graffiti, thefts from vehicles and drug dealing. Building such a network also encourages and protects economic investments in the city, helps guard vulnerable populations such as the elderly and children and can provide useful evidence for criminal activity, accidents and other investigations. Similar projects have been successful in Baltimore, Chicago, Wilmington DE and Lancaster, PA.

The primary uses for this system include:

- Protects the investment in the city
- Promotes urban revitalization/economic development
- Deterrent to crime; changes behavior
- Aids in discovering and enforcing drug-related crimes
- Identifies drug dealing in school zones; drug use in parks
- Helps prevent and investigate incidents of vandalism, graffiti, thefts from vehicles and other quality of life issues.
- Protects vulnerable populations: housing for elderly and disabled
- Video monitoring is also used to make certain police are on their best behavior
- Aiding investigations: cameras tell “just the facts” and aid in the investigation of accidents, questionable deaths, shootings

Cameras that are placed in public spaces will monitor streetscapes, sidewalks, public buildings, parks and other public spaces in the city. Exact locations will be determined by city officials, primarily the police department, and will center on areas that are experiencing higher than normal criminal activity, population centers and some neighborhood thoroughfares.

The cameras will be monitored by civilian staff in a room at city hall. The room will be equipped with monitors, recording equipment, computers that receive police dispatch information and telephones. At least one full time staff member will initially anchor the monitoring operation. These paid staff members will be supplemented by part-time paid staff and crime watch volunteers. The initial goal will be to provide monitoring for 100 hours per week, with one full time person, several part time persons and volunteers. There should be two persons doing the monitoring when volunteers are used. The hours of monitoring will be flexible and will not be made public.

The video safety system will be supervised by the police lieutenant in administrative services and the sergeant in the records unit. The desk sergeant will also assist in providing oversight as needed on a daily basis.

Operating Expenses

The following annual recurring expenses are planned for a thirty-five camera video safety system:

Category	Amount
Full-Time Salary and Benefits	\$47,250
Part-Time Salary	\$50,000
Maintenance	\$25,000
Utilities	\$22,000
Professional Fees and Insurance	\$29,000
Office Equipment	\$7,500
CCTV Installation Integration/Support	\$40,000
Total	\$220,750

Policies and Procedures

The intent of the Video Safety program is to improve the safety of public spaces through the use of video camera technology and effective communication between the public and the police. The use of video cameras will provide more “eyes on the street” and will enhance individual civic responsibility in the areas of reporting suspicious activity and protecting and enhancing the quality of life.

The successful implementation and continuation of the Video Safety program relies heavily on the continuous and effective support and cooperation between the Reading Police, residents, businesses, corporations, and institutions.

It is for this purpose that a policy be created and implemented which assures that a set of operational guidelines and procedures are in place and strictly adhered to by City of Reading Police Department Video Safety Unit staff. The following policy is hereby adopted and will be followed by ALL Monitoring Staff having involvement with the Reading Police Department Video Safety Unit (RPDVSU).

1) **Control:** The chief of the City of Reading Police Department will be ultimately responsible for the video monitoring operations. The employees and volunteers (hereafter known as the Monitoring Staff) will operate under the supervision of the lieutenant of administrative services.

- **Staffing:** The video safety equipment will be monitored by the Monitoring Staff. The actual shifts will be coordinated by the lieutenant or his designee.
- **Use:** The use of the video monitoring system will be limited to public safety needs. No private or non-police or non-public safety use is permitted. Recordings will not be released nor viewed by persons for private investigations or civil actions without a valid court order.
- **Dissemination of Recordings:** Recordings will only be viewed by Reading police officers and the monitoring staff, except that recordings that are part of a criminal or summary case will be entered as evidence, and access will be granted as per the Pennsylvania Rules of Criminal Procedure and the rules of evidence.
- **Identification of Suspects:** Images of persons suspected of committing a crime that is viewed during live monitoring or caught by recording his or her actions may be reproduced and viewed by members of the media and the public for purposes of identification of the individuals. Such dissemination must be approved by a police supervisor.
- **Court Orders:** Valid orders from a Court of Common Pleas or other court of record in the Commonwealth of Pennsylvania will be honored after review and agreement of an attorney acting on the behalf of the City of Reading.

2) **Qualifications:** All Monitoring Staff members must comply with the following:

- **Confidentiality Agreement** – All Monitoring Staff members are required to complete and sign a Confidentiality Agreement. This agreement prohibits the

Monitoring Staff from discussing events that are viewed in the monitoring room and topics discussed with Unauthorized Individuals (i.e. individuals who are not privileged to the confidential information. "Unauthorized Individuals" includes any person or organization not designated by the Police chief as an authorized person based on a need-to-know basis.

- **Criminal Background Check** - All Monitoring Staff must agree to a criminal background check. This background check collects history of the past eight years.
- **Drug Screening** – All Monitoring Staff must agree to a drug screening prior to joining the Reading Police Department Video Safety Unit.
- **Random Drug Testing** – All Monitoring Staff must agree to random drug testing as part of the continued participation with the Reading Police Department Video Safety Unit.

3) Training: Monitoring Staff will undergo mandatory training at the direction of the lieutenant. ***Only those employees who satisfactorily complete this training will be permitted to operate the equipment.*** At no time will the Monitoring Staff be permitted to attempt to repair equipment. Tampering with equipment may void any warranty and subject the guilty party of severe discipline up to and including termination of employment.

4) Entrance: Visitors must be authorized by the lieutenant or his designee. The monitoring room will be monitored by a video camera and will be reviewed at unscheduled intervals by the lieutenant. Individuals entering the monitoring room who are not Monitoring Staff will be required to sign-in utilizing a log located in the monitoring room. The person entering will record their name, date, time of entering and time of exiting the center. The Monitoring Staff will be responsible for reporting unauthorized entrance of personnel to the lieutenant.

5) Operations:

Monitoring - Monitoring Staff will use police equipment to observe activities in public spaces, report incidents to the appropriate authorities, and enhance the delivery of service by the Reading Police Department and other emergency service providers.

At the beginning of each shift, Monitoring Staff will operate each camera to ensure that the camera is in proper working condition. This will involve engaging each camera and panning left, right, up and down along with zooming in and out. Any camera not in full working order will be reported to the Lieutenant and noted in the monitoring log book.

The City of Reading Police Department Video Safety Unit maintains a Log Book of calls, Monitoring Staff activities and key observations. It is the responsibility of the Monitoring Staff to record information into the Log Book so that it is up to date each day. Such information shall include staff sign in/out information.

Camera Positions – When Monitoring Staff is not present, each camera will be focused on the most advantageous angle to ensure the safety of the public and protecting the privacy of individuals. These angles will be determined by the lieutenant. Manual operation of the cameras is permitted and encouraged so as to cover as much area as possible in public and quasi-public spaces, while adhering to police unit policies and procedures.

Reporting Suspicious Activity - All Monitoring Staff must report suspicious activities to the desk sergeant. When an incident occurs, the following entities shall be notified as appropriate:

- Monitoring Staff shall dial **911** for all emergencies that require the response of police and other emergency service providers. An emergency is defined as an event that demands immediate action because it is thought to endanger life or property. Such incidents may include observations of any of the following: criminal acts; smoke/fire; serious accident; emergency illness; and a person who is lost, frightened, or needs special assistance.
- If only the police are needed, Monitoring Staff shall call the Reading Police Dispatcher (610-655-6111)
- Monitoring staff shall call Neighborhood Policing Sector mobile phones (Sector Phones) in incidents that do not require an immediate response or as otherwise agreed upon between the Police and Monitoring Staff. Sector Phone numbers shall be posted in the Monitoring Center.

Monitoring Staff will look for the following activity:

- Disorderly groups
- Disorderly persons
- Fights
- Traffic accidents
- Thefts in progress
- Activity deemed to be suspicious in nature
- Illegal vendors
- Prostitution
- Drug violations
- Illegal use of alcohol in public
- Inappropriate conduct of police officers
- Obvious unsafe motor vehicle operation
- Vandalism/ graffiti
- Smoke/ fire
- Lost children or elderly
- Persons appearing confused or ill
- Bullying
- Activities under investigation by the police.
- Code violations for Problem Properties identified by the lieutenant

Monitoring Entire Incidents - After an incident is reported to the police, Monitoring Staff shall remain focused upon the incident scene and shall record the interaction between the police and civilians until the police leave the scene. Video recordings will be used for investigations into police conduct or if otherwise requested by the Reading Police Department. Recordings of entire events will also be useful for training purposes of police and monitoring staff.

Recording – Video from each camera is recorded by use of digital video recorders (DVR's). The DVR's shall be set to overwrite the oldest data on the hard drive. The number of days of archived recordings will vary depending upon the size of the DVR, the types of cameras in use, video quality settings, and the amount of motion detected by each camera.

Confidential Materials & Information – Monitoring Staff are legally bound by their Confidentiality Agreement. All video records, CD's, DVD's, printed photographs, incident reports, Log Book data, monitoring methods, infrastructure plans, and all other information is the exclusive property of the RPDVSU. Such materials shall remain in the RPDVSU unless distribution to other parties is authorized in writing by the Lieutenant. Monitoring staff shall not remove any such materials from the Reading Police Video Safety Unit office or share such information with non-RPDVSU staff. A violation of this policy is grounds for termination and legal action against the individual.

Log Off Procedure - At the conclusion of each shift Monitoring Staff will ensure that all appropriate information is recorded in the Log Book.

6) Complaints: Should an incident occur in which the Monitoring Staff feels that he/she was treated unprofessionally by a representative of another agency, that employee will submit a detailed report regarding the circumstances surrounding what occurred. The employee shall record include in the report, the following:

- Date & Time of incident
- The type of incident
- The specific company or agency
- The name of the representative
- A description of the improper conduct
- What efforts were made in an attempt to resolve the issue

This report will be forwarded to the Lieutenant. Once investigated, the complaining employee will be notified of what the investigation revealed as well as any adjustments required on the part of the RPDVSU (if needed) to assure that this type of incident is avoided.

7) Prohibited Acts: The following acts by civilian monitoring personnel are prohibited and shall constitute grounds for IMMEDIATE TERMINATION subject to the decision of the police chief:

- **ANY zooming of cameras deemed by the police chief to be unprofessional or for personal gratification will NOT be tolerated and will subject the civilian operator to IMMEDIATE TERMINATION.** Recordings from all cameras will be reviewed by the Lieutenant at unscheduled intervals. Unprofessional monitoring will be addressed promptly and severely.
- **Monitoring Staff are strictly prohibited from engaging in racial profiling,** defined as any action to monitor or report an individual based on the individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal or suspicious activity.
- Any unprofessional actions.
- Unauthorized "tampering" with ANY of the electrical connections, electrical lines, telephone lines, video recording equipment, video equipment in the monitoring room or in the field.
- Permitting unauthorized personnel into the monitoring room.

- Displaying uncooperative or unprofessional demeanor with any person.
- ANY intentional or deliberate damage to video equipment may result in the immediate termination of the guilty employee and subject the employee to civil and/or criminal liability.

8) Procedural Changes: Additional policy and procedural changes may be implemented in order to assure that the City of Reading Police Department Video Safety Unit remains effective and efficient. Each implemented change will be provided to Monitoring Staff, in writing. Any questions related to the City of Reading Police Department Video Safety Unit should be first directed to the Police chief for clarification



M E M O R A N D U M

TO: Members of Council
FROM: Linda A. Kelleher, City Clerk
Charles Younger, City Solicitor
DATE: April 25, 2007
SUBJECT: Initiative and Referendum Ordinance

At the April 9th regular meeting Council tabled the Initiative and Referendum Ordinance requesting further discussion and consideration of that proposed. The President of Council asked if the Charter Board reviewed the proposed ordinance and issued an advisory opinion with suggested changes.

After lengthy review with the Solicitor, 7 of the 9 recommended changes were made. The 2 changes that were not taken are 1) 1-1103 Form and Content: allowing petitioners to submit home-made petition forms and 2) 1-1112 Procedure after Filing: verification of signatures on petitions. Rationale about why the original language was retained has been added to the attached draft. The attached draft marks each section as follows:

- Charter Board suggestions added are shown in **yellow**.
- Language that was not changed as suggested by the Charter Board is shown in **pink**.
- Rationale from the Solicitor and City Clerk are shown in **blue**.



(Exhibit A)

§1-1100 Declaration of Purpose:

The City of Reading City Council recognizes the importance of protecting and promoting the ability of our citizens to participate in government through Initiative and Referendum. Since the change to Home Rule government there have been approximately 10 citizen petitions efforts. The lack of clear instruction on the circulation and signature verification of initiative and referendum petitions in the Charter has caused many procedural problems, resulting in court challenges and legal fees to both the City and citizen groups. Therefore, through the enactment of this ordinance, City Council sets out regulations pertaining to the circulation and signing of initiative and referendum petitions to assist Reading voters with their rights to participation provided by the Home Rule Charter. *Reworded as suggested*

§1-1101. Initiative and Referendum.

A. **Initiative.** The qualified voters of the City shall have the power to propose ordinances to the Council. If the Council fails to adopt such an ordinance, the initiative process may be commenced giving the qualified voters of the City the opportunity to adopt or reject said ordinance at a City election. (*Charter, 11/3/1993, §1102*)

B. **Referendum.** The qualified voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance. If the Council fails to repeal an ordinance so reconsidered, the referendum process may be commenced giving the qualified voters of the City the opportunity to approve or reject said ordinance at a City election. (*Charter, 11/3/1993, §1102*)

§1-1102. Initiative and Referendum; Commencement of Proceedings; Petitioners Committee; Affidavit.

A. Any five qualified voters of the City may commence initiative or referendum. A qualified voter is a legal resident of the City of Reading who is registered and constitutionally entitled to vote in Pennsylvania. *Reworded as suggested*

B. A qualified voter shall obtain a Petitioner's Committee Affidavit and Petition Forms from the City Clerk in the Council Office during regular business hours. *Reworded as suggested*

C. The Petitioner's Committee Affidavit shall state the names and addresses of 5 qualified voters who will constitute the Petitioner's Committee and be responsible for circulating the petition and

filing it in proper form, and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or the ordinance sought to be reconsidered.

D. In case of referendum, such an affidavit must be filed within 10 days of the adoption of the ordinance

E. Within 5 days after the Petitioner's Committee Affidavit is filed and validated, the City Clerk shall issue the appropriate petition blanks to the petitioners. (*Charter, 11/3/1993, §1103*)

§1-1103. Form and Content

The form and content of each petition pack shall be prepared as follows:

1. Each petition shall be uniform in size and style on 8 ½ x 11 paper, marked sequentially and/or contain a serial number.
2. Each petition pack shall contain a one petition.
3. Have an Affidavit of Circulator, as defined in Section 1-1104 below.
4. Contain complete text of the initiative ordinance being considered or the ordinance to be considered for repeal by referendum, as stated in Section 1-1105 or 1-1106 below.
5. Contain no more than 20 signature lines for the printed name, address, ward, precinct, signature of each person signing the petition, and the date signed.
6. Contain a Warning Statement advising that it is unlawful for anyone to sign any initiative or referendum petition with any name other than his/her own, or to knowingly sign his/her name more than once for the same proposal, or to sign such petition when he/she is not a legal voter in the City of Reading.
7. No corrections, additions or alterations shall be made to the form of all petitions issued by the City Clerk to the Petitioner's Committee. *Reworded as suggested*

Any petition not following the form and content set out above shall be declared invalid.

After reviewing and considering the Charter Board's Advisory Opinion, the City Solicitor and City Clerk decided against using the Charter Board's suggested language stating "However, the Clerk may not refuse to accept either the Petitioner's Committee affidavits or petitions solely on the basis of Sections 1-1102(B) and 1-1103 of this Ordinance when such petitions to affidavits are otherwise complaint with the Charter and state law." The Elections Code §2867 states that nomination petitions are to be in a form prescribed by the Secretary of the Commonwealth. The County Election's Office does not allow those running for office to submit homemade nomination petitions.

§1-1104. Affidavit of Circulator. Each paper of a petition shall have attached to it upon filing a notarized affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, and believes them to be valid and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. (*Charter, 11/3/1993, §1102*)

§1-1105. Initiative Petitions. All Initiative Petitions shall contain an initiative statement, describing the intent of the ordinance not exceeding 100 words, phrased in the form of a question that can be answered only with an affirmative or negative response. The initiative statement may be distinct from the petitioner's title of the measure, and shall express and give a true and impartial statement of the purpose of the measure. It shall not intentionally be an argument, nor likely to create prejudice, either for or against the measure. This statement shall be delivered to the City Clerk at the time the request for the Petitioner's Committee Petition form is requested. Each petition shall also have attached to it the full body of the initiative ordinance.

§1-1106. Referendum Petitions. All Referendum Petitions shall contain the title of the bill enacted by City Council as well as the bill number and date of enactment of the bill sought to be repealed. Each petition shall also have attached to it the full body of the bill sought to be repealed.

§1-1107. Signatures. Initiative and referendum petitions must be signed in ink or indelible pencil by 2000 qualified voters of the City of Reading. *Reworded as suggested*

§1-1108. Circulation of Petitions. The Petitioner's Committee shall be responsible for instructing circulators on the regulations and guidelines for circulating petitions, as contained herein.

- A. All circulators must reside in the City of Reading and be registered to vote as defined in §1-1102 A above.
- B. Each person collecting signatures must allow any person to review the text of the initiative ordinance or ordinance to be reconsidered.
- C. Each signature collected must be personally witnessed by the circulator.
- D. The circulator must complete the Affidavit of Circulator before a Notary Public after all the signatures on the sheet have been collected.
- E. Circulators must not attempt to obtain signatures of persons knowing that the person signing the petition is not qualified to sign it.
- F. Circulators must not offer money or any thing of value to another person or threaten a person to sign or not to sign a petition, nor shall they sell or offer to sell signature sheets.
- G. Circulators must not accept compensation to circulate a petition that is based on the number of signatures obtained.
- H. Any person violating the circulator regulations shall be charged in accordance with the applicable offense sections of the Elections Code 25 P.S. §2601 et seq.

§1-1108. Time for Circulating and Filing Referendum Petitions. Referendum petitions must be circulated and filed within 35 days after the filing of the Petitioner's Committee Affidavit. The City Clerk shall only accept petitions filed by the Petitioner's Committee. The City Clerk shall not accept any petitions submitted by any other circulators, representatives or agents thereof.

§1-1109. Time for Circulation and Filing Initiative Petitions. Initiative petitions must be circulated and signed within a period of 65 days from the date of the filing of the Petitioners Committee Affidavit with the City Clerk. The City Clerk shall only accept petitions filed by the Petitioner's Committee. The City Clerk shall not accept any petitions submitted by any other circulators, representatives or agents thereof.

§1-1110. Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

A. There is a final determination of insufficiency of the petition; or

B. The Petitioner's Committee withdraws the petition; or

C. Council repeals the ordinance; or

D. Thirty-five days have elapsed since the issue of the affidavit and the required number of signatures has not been secured. (*Charter, 11/3/1993, §1106*)

§1-1111. Submission of Petitions

Before submitting the signature sheets for verification, the Petitioner's Committee must stack petition packs beginning with the number 1 and continue sequentially until all sheets petitions issued are accounted for. The petitions submitted must contain at least 2000 original signatures. The Petitioner's Committee must also include a letter stating how many signatures they purport to have. The City Clerk shall advise the Petitioner's Committee of their ability to obtain the necessary number of signatures **or make other corrections** in accordance with Section 1-1113 of this part herein. *reworded as suggested*

§1-1112. Initiative and Referendum; Procedure after Filing.

A. Sufficiency of Petitions – Determination

No petition for referendum shall be filed with the City Clerk unless it contains the required number of signatures. Upon filing of a petition for initiative or referendum with the City Clerk, the City Clerk shall make an initial face value determination of sufficiency and report the results thereof to the City Council within two (2) days of the date of such filing. The City Clerk may make its determination of sufficiency of the petitions and the signatures contained thereon as stated hereafter and in Section 1-1113 below.

B. After completing the initial face value determination, the City Clerk may complete a verification process to find whether signatures of individuals on the petitions are insufficient in the following categories:

1. Address shown by signer is not located within the city limits of the City of Reading;
2. Any signature appearing on the petition more than once, in which event all signatures of said individual shall be deleted except one;
3. More than one individual signature is on a signature line, in which event the line shall count as one;
4. Signature lines containing incomplete information or information which was not completed by the elector or a person qualified to assist the elector shall not be counted;
5. Signature and information that does not match the County's Voter Registration Records;
6. Signatures of individuals who are not registered electors in the city.
7. Each petition pack shall only contain one petition; multiple petitions may not be attached to a single ordinance and circulators affidavit. *Reworded as suggested*

C. The petition may not be removed and no signature may be removed or deleted by a signer, circulator, or representative of a circulator or signer after the petitions have been filed with the City Clerk. Copies of the petitions submitted will not be provided to the Petitioner's Committee by the City.

After reviewing and considering the Charter Board's Advisory Opinion, the City Solicitor and City Clerk decided against using the Charter Board's suggested language stating (in summation) that the City Charter only permits a facial examination by the City Clerk as to the requirements in Charter Section 1104. After reviewing and considering this opinion, the City Solicitor and City Clerk decided against using the language suggested by the Charter Board for the following reasons:

1. Charter Section 1104 states

"1. Certificate of Clerk; Amendment. Within 20 days after the petition is filed, the *City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail.* A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the City Clerk within 2 days after receiving the copy of the certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (2) and (3) of §1104, and within 5 days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners committee does not elect to amend or request Council review under subsection (2) of this section within the time required, the City Clerk shall promptly present their certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

2. **Council Review.** If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

3. **Court Review; New Petition.** A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose."

The Elections Code §2936 states "When any nomination petition, nomination certificate or nondiscrimination paper is presented in the office of the Secretary of the Commonwealth or of any county board of elections for filing within the period limited by this act, it shall be the duty of said officer to examine the same. No nomination petition, nomination paper or nomination certificate shall be permitted to be filed if-(a) it contains material errors or defects apparent on the face thereof, or on the face of the appended or accompanying affidavits; or (b) it contains material alterations made after signing without the consent of the signers; or (c) it does not contain a sufficient number of signatures as required by law; *Provided, however, That the Secretary of the Commonwealth or the county board of elections, although not hereby required so to do, may question the genuineness of any signature or signatures appearing thereon, and if he or it shall thereupon find that any such signature or signatures are not genuine, such signature or signatures shall be disregarded.*"

The Elections Code §2936 gives the county elections board the discretion to perform a closer inspection of the signatures on a nomination petition and to remove those found to be faulty. The Elections Office provides notification to the petitioner only if the entire petition is found to be invalid. Challenges to nomination petitions must be submitted to the Prothonotary and Elections Office within 7 days of filing. The party filing the objection must then inform the petitioner that an objection was filed. Decisions on challenges to nomination petitions are made by the Court of Common Pleas. Applying the sections of the Elections Code that speak to the challenge of nomination petitions would not work with initiative and referendum petitions.

The Charter language does not limit the City Clerk to a facial inspection. The Solicitor and City Clerk believe that by providing the City Clerk with 20 days to determine if a petition is sufficient the Charter is providing time for a discretionary review of the signatures. We believe that if a facial examination alone was intended, the Charter would not provide the City Clerk with a 20 day review period, as it certainly would not take 20 days to perform a facial review and count 2000 signatures. After the review, the Charter allows the Petitioners Committee with one opportunity to amend a faulty petition. The Petitioners Committee may appeal the City Clerk's sufficiency decision to either City Council or the Court of Common Pleas. Again, with nomination petitions all challenges are made to the Court of Common Pleas.

The Solicitor and City Clerk believe that the processes used for nomination petitions and initiative and referendum petitions can be similar but not the same. People challenging nomination petitions are trying to block someone from running for public office. Who could be a party to challenge an initiative or referendum petition? A citizen would not know that an initiative or referendum was filed as these actions do not take place at each election. The Elections Code speaks to the challenge of nomination petitions, the Charter does not. We do not believe the Charter intended to allow challenges to initiative and referendum petitions, instead it provided time for review of the petitions to protect the integrity of the entire process.

The petitions used to initiate an ordinance opposing the Civic Center back in the late 90's had very few flaws upon facial review and staff in the City Clerk's office did not undertake a full scale verification process. However, the petitions the City Clerk's Office received for the repeal of the PSR and the repeal of the Solid Waste Ordinance did have facial flaws such as circulators who were not City residents, homemade petitions, different handwriting on many signature lines, signatures from people who were not City residents, etc. which warranted a closer inspection.

The City Solicitor and City Clerk believe that the difference in the time of review (20 days for the City Clerk and 7 for the Elections Office) indicates that the initiative and referendum petitions are to receive more than facial scrutiny. We believe that providing these discretionary powers to the City Clerk is important.

§1-1113. Certificate of Clerk; Amendment. Within 20 days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioner's Committee by registered mail.

A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioner's Committee files a notice of intention to amend it with the City Clerk within 2 days after receiving the copy of the certificate and files a supplementary petition upon additional papers to be supplied by the City Clerk within 10 days after receiving the copy of such certificate.

Such supplementary petition shall comply with the requirements of this Chapter and within 5 days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioner's Committee by registered mail as in the case of an original petition.

If a petition or amended petition is certified insufficient and the Petitioner's Committee does not elect to amend or request Council review under Section 1-1114 within the time required, the City Clerk shall promptly present their certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition. (*Charter, 11/3/1993, §1102*)

§1-1114 Council Review. If a petition has been certified insufficient and the Petitioner's Committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition. (*Charter, 11/3/1993, §1102*)

§1-1115. Court Review; New Petition. A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose. (*Charter, 11/3/1993, §1105*)

§1-1116. Initiative and Referendum; Action on Petitions.

A. Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II of the Charter or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City. (*Charter, 11/3/1993, §1102*)

B. Submission to Voters. The question shall be placed on the ballot at the next primary, municipal or general election occurring at least 35 days after final Council action. Copies of the proposed and referred ordinance shall be made available at the voting precincts. (*Charter, 11/3/1993, §1102*)

C. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the 45th day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the Petitioner's Committee. Upon the filing of such request, the petition shall have no further force of effect and all proceedings thereon shall be terminated. (*Charter, 11/3/1993, §1107*)

§1-1117. Initiative and Referendum; Results of Election.

A. Initiative. If a majority of the qualified voters voting on a proposed initiative vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. If a majority of the qualified voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election.

(*Charter, 11/3/1993, §1108*)

§1-1118. Initiative and Referendum; Limitations.

A. Default of Initiative and Referendum. Any ordinance proposed or sought to be reconsidered which is rejected by the qualified voters in an election cannot be resubmitted for initiative and referendum for a period of 2 years from the date of the election where the ordinance was defeated. (*Charter, 11/3/1993, §1102*)

B. Repeal or Modification of Initiative and Referendum by Council. The Council shall take no action to repeal or significantly modify an ordinance adopted by initiative and referendum within a period of 2 years from the date of the election at which the ordinance was approved. (*Charter, 11/3/1993, §1102*)

C. Limit on the Number of Initiative and Referendum. No more than two initiative and two referendum measures may be placed on the ballot at any primary, municipal or general election. The first two initiative and referendum measures which are filed with the City Clerk will be the only ones allowed on the ballot. (*Charter, 11/3/1993, §1109*)



CITY OF READING,
PENNSYLVANIA

MEMORANDUM

TO: Members of Council
FROM: Linda A. Kelleher, City Clerk
DATE: April 25, 2007
SUBJECT: Amendment to Sidewalk Café and Sidewalk Sale Ordinances

The Codes and Administrator and I propose the following amendments to the Sidewalk Café and Sidewalk Sale Ordinances:

Sidewalk Café:

- Reduce annual permit fee to \$250 (from \$500)
- Provide for exemption from \$250 permit fee (renewal) every other year if the business is free from codes violation and has not had any complaints requiring service from City departments, and has operated in accordance with our regulations.



Sidewalk Sale:

- Reduce permit fee to \$250 per year

A N O R D I N A N C E

AN ORDINANCE AMENDING THE CITY OF READING CODIFIED ORDINANCES BY ADDING PART 15 SIDEWALK CAFES TO CHAPTER 10 HEALTH AND SAFETY

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Amending the Codified Ordinances by adding Part 15 Sidewalk Cafes to Chapter 10 Health and Safety as attached in Exhibit A.

SECTION 2. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

Enacted _____, 2007

President of Council

Attest:

City Clerk

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____
Date: _____

Vetoed by Mayor: _____
Date: _____

EXHIBIT A

PART 15

SIDEWALK CAFES

§10-1500. Declaration of Purpose. The City of Reading City Council encourages an attractive, functional and economically vital community and shopping areas that are safe and pleasant environments to live near and to do business within. Council recognizes that commercial development is a major identifying feature in a community, offering impressions to residents and visitors alike of the quality of life available. It is Council's intent to encourage commercial growth that contributes to a vibrant and attractive community. As the current Code does not allow Sidewalk Cafes due to public health and safety concerns, Council believes that these activities can greatly contribute to a pedestrian friendly community if they conform to specific public health, and safety requirements defined herein.

§10-1501. Sidewalk Cafes. No person shall engage in the operation of a sidewalk cafe, without first applying for and obtaining a permit from the City of Reading Codes Enforcement Office and then operating within the terms and conditions of all applicable City ordinances. The Sidewalk Café Permit enables a restaurant to have outdoor dining, consistent with the terms herein, between April 15th and October 15th of each calendar year.

§10-1502. Definitions. For the purpose of this article, the following terms shall have the following meanings:

ABUTTING PROPERTY -- Property contiguous to a public street right-of-way on which a sidewalk cafe will be operated under the terms of this article.

COMMERCIAL CORE - is the zoning district defined as the downtown center for government services, offices, shopping, hotels, entertainment and cultural activity.

CITY ENGINEER -- The Director of Public Works or his authorized representative.

HEALTH OFFICER -- The Health Officer of the City of Reading Codes Enforcement Office or his authorized representative

OWNER -- Includes any owner of fee simple title, part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole of the land contiguous to the street right-of-way on which a sidewalk cafe is to be operated under the authority of this article.

PEDESTRIAN WALKWAY -- That portion of a sidewalk area which is free of any obstruction, fixture or appurtenance and is used for pedestrian travel.

PERSON -- Includes a partnership, corporation, association, trust, estate or other legally recognized entity, as well as an individual.

PUBLIC SERVICE FACILITY -- A public telephone, mailbox, bench or other facility provided for the use of the general public.

RESTAURANT -- A food service establishment where food is purchased and served in individual portions for consumption on the premises. This term shall not include an establishment which operates exclusively as a caterer, a commissary, a food processing establishment, a mobile food unit, a retail food store or a temporary food service establishment.

SIDEWALK -- Any paved area between the curblin and a structure, whether publicly or privately owned, which is used by the public or open to use by the public.

SIDEWALK CAFE -- An outdoor dining area operated by a restaurant, generating 65% of its annual revenue from food sales, located on a sidewalk area or other designated public place and containing removable tables, chairs, plants and related appurtenances, which is not located on or does not encroach upon the pedestrian walkway as established under the provisions of this article. It shall not be enclosed by fixed walls and shall be open to the air, except that it may have a canopy. It may but is not required to abut its sponsoring restaurant.

STREET RIGHT-OF-WAY -- The entire right-of-way of a public highway, public alley or public road, including the designated sidewalk areas

§10-1503. Sidewalk Cafe - Issuance of Permit; Display.

It shall be unlawful for any person, firm, corporation, transient merchant, church, club, charitable institution, hawker or peddler to vend, sell or dispose of or offer to vend, sell, dispose of or display, any food, goods, wares, merchandise, produce or vegetables on any public walk, street,

alley or anywhere within the City of Reading without registering with the City Codes Enforcement Office and the Tax Division.

§10-1504. Sidewalk Cafes – Issuance of Permit, Display

The Codes Enforcement Office is hereby authorized to grant revocable licenses for the use of the sidewalks for sidewalk cafes in the Commercial Core Zoning District upon the following terms and conditions. Registration shall be on a permit approved by the City Council. When the Codes Enforcement Office has approved the issuance of a sidewalk cafe permit, the applicant shall be issued a permit. The permit shall contain the information required on the application, the expiration date, and one of the photographs submitted with the application. The permit shall be carried by the applicant at all times when engaged in sidewalk café activities and shall be exhibited for inspection for any person.

- A. The applicant shall comply with all of the terms and conditions for a sidewalk display license, set forth in this Part, including, without limitation, the indemnification, and insurance requirements.
- B. The applicant shall delineate the cafe area with a removable physical barrier separating patrons from pedestrian traffic. The delineation and layout of the cafe area shall be consistent with the site plan submitted by the applicant.
- C. No sidewalk cafe may be operated except:
 - (1) As an accessory to a restaurant or retail food store lawfully operating on the first floor of the premise.
 - (2) On the sidewalk in front of the principal place of business of such entity.
 - (3) By the entity which operates the restaurant or retail food store.
- D. Sidewalk cafes shall operate only during the hours that the facilities kitchen is open for service, but not after 11 p.m.
- E. Furnishings of a sidewalk cafe shall consist solely of readily removable umbrellas, covers, railings, tables, chairs, planters containing live plants, waste receptacles and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property or to any building or structure. All furnishings shall be removed from the sidewalk and stored in an approved manner when the sidewalk cafe is not in operation.
- F. All food must be prepared within the existing restaurant or retail food store upon which the cafe permit has been granted.
- G. The applicant shall be responsible for obtaining, maintaining in full force and effect and complying with the terms and conditions of any permit which may be required under any other law or regulation for the serving of food or beverages, including alcoholic beverages, at a sidewalk cafe.
- H. Sidewalk cafes, the public property on which they are located and the surrounding area shall at all times be kept free and clear of litter, debris and any substance that may damage the sidewalk or cause pedestrian injury.

- I. The applicant shall maintain a sufficient number of receptacles for the disposal of waste, properly covered to prevent infestation by insects. Such receptacles shall be emptied as often as is necessary, but in no event less than once per day.
- J. All sidewalk cafes and attendant facilities shall be inspected by the Codes Enforcement Office, or his designee and the Public Works Director, or his designee prior to the issuance of a sidewalk café permit.
- K. Acceptance of a sidewalk cafe permit is an express acknowledgment and consent to the terms and restrictions set by this article and the Health Officer. The grant and usage of such license is a privilege, not a right, subject to reasonable restrictions as set out herein or as may be promulgated by the regulatory authority.
- L. As an express condition of the acceptance of a permit hereunder, the recipient agrees to police for trash and debris an area extending 15 feet in each direction from the outermost portion or boundary of the sidewalk cafe at least twice daily.

§10-1505. Permitting for Sidewalk Cafes Outside the Commercial Core.

Applications for sidewalk cafes outside the Commercial Core zoning district shall be submitted to the Codes Enforcement Office in accordance with the regulations contained herein. Such applications shall be forwarded to City Council for approval.

§10-1506. Sidewalk Café Design Standards & Regulations.

All sidewalk cafes shall comply with the following standards:

- A. A sidewalk cafe shall have a pedestrian walkway with a clear unobstructed width of six feet between the sidewalk cafe and any obstacle (tree, pole, post, sign, planting area, bus shelter, etc.). The pedestrian walkway shall be provided with an unobstructed height of seven feet between the ground plane and an overhead obstacle (tree branch, overhead sign, awning, etc.).
- B. No sidewalk cafe may be permanently located within the sidewalk area by means of raised deck platform, fence, walls or other structures or enclosed by fixed walls, except that sidewalk cafe boundaries may be delineated by the use of temporary barriers such as balustrades, cordons or railings. Any such temporary barriers must be easily removed and three feet or less in height above the sidewalk. Under no circumstances shall temporary barriers as authorized hereunder be allowed in the identified pedestrian walkway, nor shall a temporary barrier be affixed to the sidewalk or to any permanent structure, except that it may be attached by removable clips or devices approved in advance by the City Engineer.
- C. The City Engineer may approve temporary platforms or similar structures for the sole purpose of leveling sidewalk cafe areas on which sidewalk cafes are located.
- D. No sidewalk cafe shall be situated:
 - (1) Within six feet of any pedestrian crossing as defined in City of Reading Codified Ordinances;
 - (2) Within five feet along the street line of any fire hydrant or other emergency facility;
 - (3) Within five feet of any driveway;

- (4) Within 10 feet to the rear of any sign marking a designated bus stop;
 - (5) In a manner which restricts sight easements of vehicular traffic; or
 - (6) In a manner which obstructs traffic control devices or traffic signs.
- E. All sidewalk cafes shall be open to the air.
 - F. Canopies and awnings may be permitted in accordance with specifications, as delineated by the City Building Code and the City Zoning Code which relate to height, placement, interference with pedestrian passage and traffic sight easements. HARB approval may be required.
 - G. Sidewalk cafes shall in no way obstruct the ingress to or the egress from any building or business.
 - H. All sidewalk cafes and their attendant facilities or improvements shall comply with clearances required for structures in relation to utility lines as provided in the City Building Code.
 - I. No sidewalk cafe shall be located on the sidewalk between the building facade and a bus stop.
 - J. No portion of a sidewalk cafe or its facilities, appurtenances, planters, shrubs, tables, chairs or other materials shall be permitted in the pedestrian walkway as defined in this article.
 - K. Sidewalk cafes shall provide and maintain adequate lighting in and around the pedestrian walkway so as to allow sidewalk users to observe and avoid obstructions.
 - L. Sidewalk cafes shall not obstruct access to hydrants, streetlights, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or street.
 - M. No signs shall be hung or attached to any portion of the sidewalk cafe, except those signs that are in compliance with provisions of the City Zoning Ordinance.
 - N. A sidewalk cafe may be expanded to an abutting property with the written permission of that abutting property owner.
 - O. In the event that the proposed sidewalk cafe is not in front of a restaurant or abutting property, the applicant must provide written permission from the owner of the property and reasonable procedures that a sidewalk cafe can be operated in a noncontiguous location.

§10-1507. Sidewalk Cafe Regulations.

A sidewalk cafe authorized and operated pursuant to this article shall:

- A. Comply with all plans submitted to and approved by the Codes Enforcement Office.
- B. Serve alcoholic beverages only in conformance with Pennsylvania Liquor Control Board requirements.
- C. Operate only during the same hours the kitchen that the kitchen is open for service. All patrons must be vacated from the sidewalk cafe and all utensils, containers or any other serving materials used in the operation of the sidewalk cafe or within the area used by the sidewalk cafe shall be removed from the sidewalk cafe area within one hour after the kitchen closes; provided, however, that any railing, flooring or other support or enclosure used in the assembly, operation or enclosure of the sidewalk cafe may be allowed to remain on the sidewalk area if specifically permitted in the Code Enforcement Office's approval of the sidewalk cafe plans as described under §10-1507 above.
- D. Remove all sidewalk cafe structures by October 30, and not install prior to April 1, in any year

for which a license is granted.

- (1) In the event that favorable weather conditions should prevail, a sidewalk cafe may temporarily reopen on a daily basis during the time period set forth in Subsection D above, with the approval of the Codes Enforcement Office. All tables, chairs and other materials must be removed every day by sundown.
- E. Use no food serving or food service equipment to hold, store, heat, warm, cool, chill or otherwise keep food to be served outside of the sponsoring restaurant for use in or by a sidewalk cafe.
- F. Serve no food or beverages to a patron at a sidewalk cafe unless that patron is seated at a table.
 - (1) If the sidewalk cafe is located adjacent to the sponsoring restaurant, in lieu of Subsection F above, the following is allowed:
 - (a) Self-service by patrons, without table service; or
 - (b) Facilities for standing instead of sitting.
- G. Play no music, from whatever source (acoustical, electric, or other) on the premises outdoors, except in conformance within Chapter 6 Conduct of the Codified Ordinances, Noise.
- H. Police for trash and debris an area extending 15 feet in each direction from the outermost portion or boundary of the sidewalk cafe at least daily.
- I. Comply with all other provisions of the Codified Ordinances of the City of Reading.

§10-1508. Sidewalk Café Permit Fees.

- A. The permit fee for a sidewalk cafe shall be \$500 for the calendar year.
- B. There shall be no prorating or rebating of permit fees.

§10-1509. Sidewalk Café Application Requirements.

Each applicant for a license under this article shall submit three copies of his application and plans for the sidewalk cafe to the Codes Enforcement Office, who shall issue a permit upon compliance with the terms and conditions of this article. Application must be made within 14 business days prior to the intended start date. Applications for sidewalk cafe permits shall include the following:

- A. The name and street address of the applicant.
- B. The name and street address of the owner of the sidewalk cafe, of the owner of the underlying freehold and/or abutting property owner if not the same person and:
 - (1) A description of the owner of the abutting property, if other than a natural person, including the legal status (corporation, partnership, etc.) and a general description of the type(s) of business operated on the abutting property.
 - (2) Letter from the abutting property showing their support for the operation of a sidewalk café.

- (3) Written authority in the form of a power of attorney from the owner to submit the application if the applicant is not the owner of the abutting property.
- C. The name and street address of the registered agent for the service of process, if the applicant represents a corporation; or the names and street addresses of the officers or partners, if the applicant represents an association, partnership or other entity.
- D. The name and street address of the operator, manager or other person responsible for the operation of the sidewalk cafe.
- E. The name under which the sidewalk cafe will be operated.
- F. The street address and the City food establishment license number of the restaurant operating and servicing the sidewalk cafe.
- G. A copy of the current City Business License.
- G. A site plan drawn to a scale of 1/2 inch equals one foot, showing:
 - (1) The entirety of the sidewalk abutting the property of the owner;
 - (2) The frontage of the property proposed for the sidewalk cafe;
 - (3) All abutting properties;
 - (4) All existing sidewalk features, including but not limited to trees, utility poles, sign poles, fire hydrants, permanent litter receptacles, telephone booths, news vending racks and mailboxes;
 - (5) Any bus stops within 25 feet on either side of the proposed sidewalk cafe area; and
 - (6) Detailed drawings of legible proportions showing the limits of the proposed sidewalk cafe site, the design dimension and proposed location of all proposed temporary structures (i.e., canopies, umbrellas, planters, landscaping, tables, chairs, all exterior lighting, electrical outlets, etc.), the proposed pedestrian walkway and the side and front elevations of the proposed sidewalk cafe.
- H. The seating capacity of the proposed sidewalk cafe.
- I. A copy or copies of the certificate or certificates of insurance required to be provided.
- J. If the serving of alcoholic beverages is proposed, a copy of the current state liquor license that will allow or can be amended to allow applicant to serve alcoholic beverages in the sidewalk cafe.

§10-1510. Sidewalk Café - Review of Application.

- A. Before any permit is issued pursuant to this article, the plans submitted to the Codes Enforcement Office pursuant to this article shall be referred to and approved by the Public Works Director, Reading Police Department and Department of Fire and Rescue Services.
- B. The Codes Enforcement Office shall determine if the applicant has:
 - (1) Obtained the approval of the Public Works Director and Building Official for any railing, flooring or other support or enclosure used in the assembly, operation or enclosure of the sidewalk cafe. No such railing, flooring or other support or enclosure shall be considered an erection of, addition to or a structural alteration of a building or structure under applicable City Building Code unless such railing, flooring or other support or enclosure is permanently attached to such building or structure.
 - (2) Obtained the approval of the Historical Architectural Review Board (HARB) if the sidewalk café is located within any area designated as part of an historic district and if the

applicant proposes any facilities which are under the jurisdiction of the HARB. The HARB shall use the review criteria for such plans relating to a sidewalk cafe's specific location, size and structure, for its compatibility of scale, design and alteration in the plans for a sidewalk cafe approved by the HARB requires reapproval from the HARB. Once approval is granted by the HARB, the approved plans are valid and do not require annual reapproval. The HARB shall only review applications which have the written approval from the Public Works Director as specified herein.

- (3) Complied with all rules, regulations and specifications of this article.
- C. The Codes Enforcement Office may impose any other restriction on the location, size or design of the sidewalk café that, in his sole judgment, protects the health, safety and welfare of the public.

§10-1511. Conditions for Issuance of Permit.

- A. Upon approval by the Codes Enforcement Office of the plans submitted by the applicant and upon the applicant furnishing to the City of Reading the following, the Codes Enforcement Office shall issue a permit, valid through the end of the calendar year:
 - (1) A hold-harmless agreement executed by the applicant and indemnifying the City against loss, including costs and expenses, resulting from injury to person or property as a direct or indirect result of the operation of the sidewalk cafe. Said hold-harmless agreement shall be subject to the approval of the City Solicitor.
 - (2) Proof of liability insurance in the amount of \$100,000 per individual and \$300,000 per occurrence.
 - (3) If applicable, proof that the applicant has a state liquor license authorizing him to serve alcoholic beverages in his/her sidewalk cafe.
- B. Sidewalk cafe Permits are not transferable. Changes in ownership/operation require reapplication for a permit.

§10-1512. Removal of Improvements.

- A. If the City incurs any costs in removing any equipment or improvements from a sidewalk cafe for the following reasons: the establishment failed to remove equipment at the close of the business day, the establishment went out of business or the establishment failed to renew its license, within 30 days of the close of the outdoor season, the City shall remove and store all equipment and bill the property owner for the actual costs of labor, materials, equipment or any other item, service, including storage costs, or expense incurred by the City to correct such violation, plus any additional administrative fees. The equipment removed shall remain in the City's possession until the bill for removal and any fines or fees are paid in full.
- B. Any bill for such removal of equipment undertaken pursuant to this chapter shall be billed to and paid by the property owner within 60 days. Upon failure of the property owner to pay the amounts due within 60 days, the City shall assess this uncollected debt on the property taxes of this building.

§10-1513. Permit Renewal.

A sidewalk cafe permit may be renewed annually, upon review of the renewal application and complaint history, if any, which shall be provided by the Codes Enforcement Office, Reading Police Department, Department of Public Works, and Department of Fire and Rescue Services Bureau of Police. Each agency shall provide to the Codes Enforcement Office copies of any inspection results, complaints filed and citations issued concerning the sidewalk cafe under consideration. The renewal fee for the renewed permit shall be as stipulated in §10-1508 above.

§10.1514. Written Notice of Violations; Suspension of Permit.

Upon finding by either the Codes Enforcement Office or Reading Police Department that an applicant has violated any provisions of this article, the Codes Enforcement Office shall give written notice to the applicant to correct said operational violation. Upon failure to correct said operational violation within the time frame specified, the Codes Enforcement Office may take appropriate action, as necessary, to maintain the Pedestrian Walkway. The Codes Enforcement Office may suspend the applicant's permit issued pursuant to this article, as well as pursue prosecution in accordance with the requirements herein. The Codes Enforcement Office shall, in his/her sole judgment, give a violator reasonable time to repair any structural damage or physical violation of any provision of this article. An appeal before City Council shall be accorded if requested.

§10-1515. Violations and penalties; effect on eligibility for permit.

- A. Whoever violates any provisions of this article shall, upon conviction thereof in a summary proceeding, be fined not less than \$200 and not more than \$1,000 for each offense, to be collected as other fines and costs are by law collectible, or imprisoned for not more than 90 days, or both. Each day during which a violation occurs shall constitute a separate offense.
- B. Any person who is convicted of a violation of any of the provisions of this article shall have his permit suspended for one full year and shall not be eligible for another license until the expiration of one full year.
- C. Any person who fails to remove a sidewalk structure by October 30, as provided for in §10-1507, shall not be eligible for a permit in any following year.
- D. Failure to observe any of the conditions set out herein is grounds for revocation of a license. Prior to such revocation, the Codes Enforcement Office shall give 10 days' written notice to the permit of his violation of or his failure to observe a general condition as set out above. If the permittee requests a hearing prior to the expiration of that ten-day notice period, the Codes Enforcement Office shall hold a hearing to determine if the permit should be revoked. The permittee may present evidence in his own behalf if he so desires. The decision in regard to revocation may be appealed to City Council. If the permittee fails to request such a hearing, the revocation shall become effective upon the expiration of the ten-day notice period. If a permit granted under this section is revoked, all tables, chairs and other appurtenances used as a part of the sidewalk cafe shall be immediately removed from the sidewalk.
- E. This article and the foregoing penalties shall not be construed to limit or deny the right of the City or any person to such equitable or other remedies as may otherwise be available with or

without process of law.

§10-1516. Determination on Application.

The Codes Enforcement Office shall grant or deny an application for a permit pursuant to this article within ten business days of its complete submission.

§10-1517. Reservation of Rights.

Neither the adoption of this article nor the granting of any permit pursuant hereto shall be construed as a waiver of any right, privilege or immunity of the City of Reading with respect to streets and sidewalks, whether express or implied.

§10-1518. Penalties for Offenses

Any person who shall violate any of the provisions of this article shall be liable to prosecution and shall, upon conviction thereof, be liable to a fine that shall not be less than \$300 or exceed \$1000, imprisonment for not more than 15 days, or both such fine and imprisonment.