

Chapter 215
SIDEWALK CAFES

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[**HISTORY: Adopted by the Board of Trustees of the Village of St. Johnsville 7-29-2002 by L.L. No. 3-2002. Amendments noted where applicable.**]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 228.

Zoning — See Ch. 275.

§ 215-1. Purpose.

A. The sidewalk cafe regulations as established in this chapter are designed to allow sidewalk cafes on public property in a C-1 Commercial District, Chapter 275, Zoning, of the Code of the Village of St. Johnsville, where they are determined to be appropriate by the Board of Trustees and to promote and protect the public health, safety, and general welfare.

B. The general goals are to:

- (1) Provide adequate space for pedestrians on the sidewalk adjacent to the sidewalk cafes and to ensure access to adjacent commercial and retail uses.
- (2) Promote sidewalk cafes as a useful and properly planned visual amenity.
- (3) Promote the most desirable use of land and buildings in the Village.

§ 215-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SIDEWALK CAFE — An outdoor dining and alcohol- and/or non-alcohol-drinking area located on a public sidewalk, which is public through dedication, easement or public right-of-way, that provides waiter or waitress service and contains readily removable tables, chairs and railings, and may contain planters. It is otherwise unenclosed by fixed walls and open to the air, except that it may have umbrellas.

§ 215-3. Permit regulations.

- A. A permit is required to operate a sidewalk cafe. The Village Clerk-Treasurer is authorized to issue a permit for the seasonal operation of a sidewalk cafe provided that all of the requirements of §§ 215-4 and 215-5 herein have been complied with by the applicant.
- B. A permit to operate a sidewalk cafe shall be valid from, and including, May 1 through, and including, October 31 of the same calendar year. This permit may be renewed annually subject to the conditions of this chapter.

§ 215-4. Conditions for issuance of permit.

A permit for a sidewalk cafe may only be issued to the owner, or tenant with the owner's consent, of a building utilized primarily for the sale and on-premises consumption of prepared and cooked food and incidentally for the sale and on-premises consumption of alcohol and/or nonalcohol beverages, under the following conditions:

- A. The sidewalk abutting the property must be at least 12 feet in width as measured from the building line to curblineline; and
- B. There shall be a minimum clear distance, exclusive of the area occupied on the sidewalk, free and clear of all obstructions, such as, but not limited to, trees, meters, utility poles, streetlights and Village benches or planters, in order to allow for adequate movement of six feet; and
- C. Sidewalk cafes may only be located directly in front of the approved building with which they are associated. These requirements may not be waived; and
- D. No permanent structures may be affixed to the sidewalk used for the cafe and the area may be occupied only by chairs, tables, benches, umbrellas and planters, as approved by the Board of Trustees, for the convenience of the patrons of the sidewalk cafe; and
- E. An applicant shall be responsible for delineating the cafe area by setting up a barrier, such as a planter or moveable rail fence, to physically separate patrons from pedestrian traffic; and
- F. A clear and unobstructed space of not less than three feet in width must be provided from all entrances to the building abutting the sidewalk to the unoccupied portion of the public sidewalk; and
- G. Recorded music may be provided so long as it is not of a type or volume as to violate any applicable law or ordinance or otherwise create a nuisance to surrounding residents or property owners; and
- H. Lighting shall be minimal and shall be installed so that direct or indirect illumination from the source of light shall not cause illumination in excess of 0.5 footcandles on any abutting property; and
- I. No outdoor cooking of any type is permitted; and

- J. Prior to the issuance of the permit, the applicant shall file with the Village Clerk an agreement executed by the owner and tenant of the approved building to indemnify and save harmless the Village, its officers and employees, against any loss, liability or damage, including expenses, costs, and attorney's fees, for the bodily injury or property damage sustained by any person as a result of the negligent operation, in whole or in part, of the sidewalk cafe on public property; and
- K. Prior to the issuance of the permit, the applicant shall also file a certificate of general liability insurance issued to both the owner and tenant as insured and naming the Village, its officers and employees as additional insured in the principal amounts of \$1,000,000 per individual and \$1,000,000 per occurrence for both personal injury and property damage; and
- L. A site development plan for the sidewalk cafe, drawn to scale, demonstrating compliance with the requirements set forth herein shall be submitted by the applicant to the Village Planning Board.

§ 215-5. Fees and deposits; failure to comply.

- A. A fee as hereafter first adopted by resolution of the Board of Trustees upon the enactment of this chapter, and thereafter at its annual organizational meeting, shall be required upon issuance or annual renewal of permit.
- B. In addition, a refundable cash deposit, as determined by resolution of the Board of Trustees, shall be retained by the Village Treasurer until the expiration of the permit as security for the faithful performance by the permittee of all the terms, conditions, agreements, covenants and conditions of the permit on the permittee's part to be done or performed. Upon failure or default of the permittee of any of the terms, condition agreements, covenants and conditions of the permit to be performed on the part of the permittee, who shall have no claim against the Village for loss of anticipated profits or any other loss by reason thereof, any balance left after the expense of such default, as determined by the Board of Trustees shall be refunded to the permittee; any cost in excess of the deposit shall be charged to the permittee.

§ 215-6. Operating restrictions.

- A. All sidewalk cafes shall cease operation by 9:00 p.m., Sunday through Thursday, and 10:00 p.m., Friday and Saturday; and
- B. All alcoholic and/or nonalcoholic beverages to be served at the sidewalk cafes shall be prepared within the approved building and shall only be served to patrons while seated at tables.
 - (1) The drinking of alcoholic beverages by a member of the public while a patron of the sidewalk cafe area shall not be construed a violation of any local law prohibiting the consumption of alcoholic beverages in a public place or area.
 - (2) The operator of a sidewalk cafe should be in full compliance with the licensing requirements of the State Liquor Authority, as the same may exist, and shall

comply with all of the laws and regulations concerning the sale of alcoholic beverages in the state. In the event that said sidewalk cafe is not in full compliance with the State Liquor Authority laws and rules and regulations concerning the sale of alcoholic beverages, then serving alcoholic beverages in the sidewalk cafe area shall be prohibited and any permit issued shall be revoked; and

- C. The restaurant shall not serve food or beverages to a patron of a sidewalk cafe unless that patron is seated at a table; and
- D. Sidewalk cafes and the public property on which they are located shall, by the operator of the sidewalk cafe, be kept neat and clean at all times and free from any substance which might damage the sidewalk or cause injury to pedestrians.

§ 215-7. Penalties for offenses. ¹

Any person, firm or corporation who, or which, shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall, upon conviction thereof, be subject to a fine not to exceed \$250 or a term of imprisonment not to exceed 15 days, or both. Each day during, or on, which a violation of this chapter shall occur shall be deemed to be a separate and distinct offense.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).