

REGULATING SIDEWALK CAFES WITHIN THE VILLAGE OF WELLSVILLE

Local Law No. 3 of 2025

Be it enacted by the Board of Trustees of the Village of Wellsville as follows:

SECTION I. Purpose

The sidewalk café regulations as established in this local law are designed to allow sidewalk cafes on public property in locations where they are determined to be appropriate by the Village Board and to promote and protect the public health, safety, general welfare and amenity. The general goals are:

- A. To provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes and to ensure access to adjacent commercial and retail uses.
- B. To promote sidewalk cafes as useful and properly planned visual amenities which better relate to the streetscape.
- C. To promote the most desirable use of land and buildings in the Village.

SECTION II. Definitions

- A. For the purposes of this local law, the following words, phrases and terms and their derivations shall have the meanings herein given. When not inconsistent with the context, words used in the present tense include the future, words used in the singular include the plural (and vice versa) and words used in the masculine include the feminine. The word “shall” is mandatory and not merely directory.
- B. Sidewalk Café: An outdoor dining area, located on a public sidewalk, which is public through dedication or easement, or public right-of-way that provides waiter or waitress service and contains readily removable tables, chairs, railings and may contain planters. It is otherwise unenclosed by fixed walls and open to the air, except that it may have an umbrella.

SECTION III. Permit Required

The Village Clerk is authorized to issue a permit for the operation of a sidewalk café, provided that all of the requirements of section IV, “Conditions for Issuance of Permit” and Section V “Fees” have been complied with by the applicant. The permit shall be valid year-round with an annual renewal date of June 1, subject to the conditions of Section IV and Section V.

SECTION IV. Conditions for Issuance of Permit

A permit for a sidewalk café may only be issued to the owner or tenant of a building occupied and used for the sale of cooked and prepared food, except fast food restaurants, in a zoned district permitting such use and abutting the public sidewalk adjacent thereto, provided that the

following requirements are met:

- A. The sidewalk abutting the property, from the property line to the curb line, must not be less than ten (10) feet.
- B. There shall be a minimum clear distance, exclusive of the area occupied by the sidewalk café, free of all obstructions (such as trees, parking meters, utility poles, streetlights, etc.) in order to allow adequate pedestrian movement. The minimum amount of clear distance is noted below:

<u>Width of Sidewalk</u>	<u>Minimum Clear Distance</u>
10' – 14' 11"	3'
15' – 19' 11"	5'
20' and above	10'

- C. Sidewalk cafes may only be located directly in front of the restaurant with which they are associated. These requirements may, however, be waived by written permission from the owner and the tenant of the affected adjacent building or store.
- D. No permanent structures may be affixed to the sidewalk area used for the café or affixed to the building abutting the area for purposes of the café, and the area may be occupied only by chairs, tables benches, umbrellas and planters for the convenience of the patrons to be served in such area.
- E. The applicant shall be responsible for delineating the café area by setting up a barrier such as planters or a railing to physically separate patrons from pedestrian traffic.
- F. A clear, unoccupied space must be provided, not less than three (3) feet in width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk.
- G. No loud or amplified music will be permitted; only background music allowed.
- H. Prior to the issuance of the permit, the applicant shall file with the Village Clerk, on a form to be provided by the Village Clerk, an agreement to indemnify and save harmless the Village, its officers and employees against any loss or liability or damage, including expenses and costs for bodily injury, and for property damage, sustained by any person as a result of the applicant's operation of a sidewalk café on public property.
- I. Prior to the issuance of a permit, the applicant shall also file proof of insurance with the Village of Wellsville as a certificate holder with the limits of twenty-five thousand/fifty thousand (\$25,000/\$50,000) for property damage and five hundred thousand/one million dollars (\$500,000/1,000,000) for personal injury, effective for the duration of the permit.
- J. A site development plan shall be prepared, in scale, by the applicant demonstrating compliance with the conditions noted hereinabove.

SECTION V. Permit Fee

A twenty-five-dollar (\$25) fee is required upon the issuance or annual renewal of the permit.

SECTION VI. Operating Restrictions

- A. All sidewalk cafes shall close operations by midnight each night.
- B. All alcoholic beverages to be served at sidewalk cafes shall be prepared within the existing restaurant and shall not be served in their original containers. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk café, within the confines of the sidewalk café area, shall not be construed as a violation of any local law controlling consumption of alcoholic beverages in a public area. The operation of a sidewalk café shall be in full compliance with the licensing requirements of the State Liquor Authority as may exist and shall comply with all other laws and regulations concerning the sale of alcoholic beverages in the State. In the event said sidewalk café is not in full compliance with State Liquor Authority's laws, rules and regulations, then serving and consumption of alcoholic beverages in the sidewalk café shall be prohibited.
- C. The restaurant shall not serve food or beverage to a patron at a sidewalk café unless that patron is seated at a table.
- D. Sidewalk cafes and public property on which they are located shall be kept neat and clean at all times and free from any substance that may damage the sidewalk or cause pedestrian injury.

SECTION VII. Fines and Penalties

Upon conviction, a violation of this local law shall be deemed an offense and punishable by a fine of \$50-\$250 or by imprisonment of a term not exceeding 15 days, or by both fine and imprisonment. The continued violation of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder. In addition, a violation of the provisions of this local law may be grounds for denying a sidewalk café permit in the subsequent year(s).

SECTION VIII. Enforcement

This local law shall be enforced by the Village Zoning Officer or the Village Code Enforcement Officer, or any Police Officer having jurisdiction. The Village Zoning Officer, Code Enforcement Officer or Village Attorney is authorized to prosecute violations of this local law.

SECTION IX. Repeal of Prior Local Laws and Ordinances

All prior local laws and ordinances, or parts thereof, titled "Regulating Sidewalk Cafes Within the Village of Wellsville" are hereby repealed.

SECTION X. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this local law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

SECTION XI. Revisions

This law may be amended going forward through Board resolution.

Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State as required by law.

Passed on the 25th day of November, 2024.