

BOROUGH OF NORTHVALE
County of Bergen
State of New Jersey

ORDINANCE #908-2012

AN ORDINANCE TO PROVIDE FOR OPEN AIR SIDEWALK CAFES ON A LIMITED BASIS WITHIN THE BOROUGH OF NORTHVALE

WHEREAS, the Borough Council of the Borough of Northvale deems it in the best interest of the residents of Northvale, as well as Northvale's business community and the many out-of-town patrons of Northvale's food service establishments, to provide for open air sidewalk cafes on a limited basis; and,

WHEREAS, the Borough Council finds that open air sidewalk cafes promote and facilitate a vibrant and active streetscape and enhance our community's quality of life; and,

WHEREAS, the Borough Council, where appropriate, desires to encourage the establishment of outdoor dining in Northvale to support local economic and commercial development; and,

WHEREAS, the Borough Council believes that clear guidelines for the establishment and operation of open air sidewalk cafes are in the best interest of the community;

NOW, THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Northvale that a new chapter of the Borough Code, entitled Limited Sidewalk Cafes, be established and shall state as follows:

Section 1. Definitions.

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

FOOD SERVICE ESTABLISHMENT -- A facility established primarily for the preparation and service of food and drink with facilities to serve same on its premises, which shall include restaurants, bakeries, ice cream parlors, taverns, delicatessens, and similar establishments.

LIMITED SIDEWALK CAFE -- The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of a food service establishment, immediately fronting on that sidewalk space, which space is unenclosed and does not have walls, but has a partition to separate it from the pedestrian area of the sidewalk.

PARTITION -- A three-sided, non-permanent, movable barrier designed to separate the limited sidewalk cafe from the public portion of the sidewalk.

SIDEWALK -- That portion of the public easement that lies between the building line and the curb.

Section 2. Requirements for operation.

No limited sidewalk cafe may operate within the Borough unless and until the owner or operator has fully complied with and continues to comply with all of the criteria set forth in this Chapter.

Section 3. Projection into streets.

No limited sidewalk cafe shall be permitted to project into a sidewalk or public easement more than half the width of said sidewalk or eight (8) feet, whichever is less, but in no case shall it extend so far as to leave less than six (6) feet for pedestrian traffic; except in areas where the sidewalk is twenty (20) feet or more from the lot line to the curb, then a limited sidewalk cafe may be permitted to project into a sidewalk or public easement a maximum of ten (10) feet.

Section 4. Permitted location.

Limited sidewalk cafes shall only be permitted in front of an operating food service establishment that has previously acquired all of the required licenses and/or permits needed to operate within the Borough. In those situations where an operating food service establishment is located on a corner, both the front and side street area of the food service establishment may be utilized.

Section 5. Regulations for operation.

A. The limited sidewalk cafe shall consist of tables and chairs set in front of the food service establishment, which shall be surrounded by a partition to separate the limited sidewalk cafe area from the public portion of the sidewalk.

B. The required partition shall be no less than thirty (30) inches in height and shall not exceed thirty-six (36) inches in height, and the design of the partition shall provide boundaries which will allow patrons and pedestrians to clearly ascertain the entrance and exit to the premises.

C. No advertising signs, banners or menus shall be placed (on), draped or attached to the partition, and the partition shall be appropriate to the facade of the building. All area lighting shall be directed away from the street and toward the primary food service establishment and conform with all other Borough regulations.

D. The limited sidewalk cafe shall have an overhead covering, consisting of either an individual umbrella over each table or a retractable awning covering all tables and chairs.

E. The partition and all tables and chairs shall be removed from the sidewalk at the close of business each day and after they are removed the area utilized for the limited sidewalk cafe shall be cleared of any obstruction and cleaned of refuse and/or food waste.

F. No audio speakers may be placed outside of the food service establishment.

G. No planters, flower boxes, menu stands, decorative items or the like may protrude outside the partition area in order to keep clear the pedestrian right of way.

Section 5. Permitted hours of operation.

Operation of open sidewalk cafes shall be permitted from April 1 through November 30, inclusive. The hours of operation shall be from be 8 am until 10 pm on Sundays through Thursdays, and 8 am until 11 pm on Friday and Saturday, except that no alcoholic beverages may be served before 12 pm on any day, and then only upon proper revision of the liquor license applicable to the premises with the Borough and/or New Jersey Alcoholic Beverage Commission, as required.

Section 6. Licenses.

A. The Borough shall grant a revocable license renewable each year for seasonal operation at a fee of one hundred dollars (\$100.00) per season for limited sidewalk cafes seating sixteen (16) or fewer patrons and a seasonal operation fee of two hundred dollars (\$200.00) for limited sidewalk cafes seating over sixteen (16) patrons. The Borough Code Official shall prepare an application form, and shall be responsible for reviewing all submitted applications to ensure that they demonstrate adherence to all of the conditions set forth in this Chapter and all applicable Borough and state laws and regulations. Included within the application shall be a survey, schematic or other evidence of the location of the boundary line of the limited sidewalk cafe.

B. The Borough, through its duly authorized agents, reserves the right to revoke the license of any limited sidewalk cafe licensee who, upon the expiration of ten (10) days after receipt of notice from the Borough or its agents of a violation of state law or any of the requirements set forth in this Chapter, fails to cure the violation.

C. The Borough expressly reserves the right to require the removal of all limited sidewalk cafes or other projections or encumbrances upon any street, sidewalk or public easement which are improperly constructed or maintained.

Section 7. Insurance required.

The applicant shall file with the Borough Building Department a certificate of liability insurance in the minimum amount of one hundred thousand dollars (\$100,000.00), naming the Borough of Northvale as additional insureds, which policy shall be kept in full force during the operation of the open sidewalk cafe.

Section 8. Violations and penalties.

A. Any person, firm or corporation violating any of the provisions of this chapter, shall, upon conviction thereof, be subject to a fine of not less than fifty dollars (\$50.00) nor exceeding one thousand dollars (\$1000.00) or imprisonment for a period not exceeding ninety (90) days, or both, and each and every day in which said violation exists shall constitute a separate violation.

B. Any person, firm, company, or corporation which fails to comport with the criteria for establishment of a limited sidewalk cafe set forth in this Chapter shall be deemed to have violated this Article and shall face the above fines and/or penalties.

Section 9. Severability.

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, which shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 10. Repeal of Inconsistent Provisions.

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 11. Effective Date.

The Ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, in the manner provided by law.

Section 12. Codification.

This ordinance shall be a part of the Code of the Borough of Northvale as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Solicitor are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of Northvale in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.