

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Wellsville

Local Law No. 5 - of the year 2003

A local law amending local law 7 of 1995 relative to sidewalk cafes

Be it enacted by the Board of Trustees of the

Village of Wellsville as follows:

- Section 6 (C) The restaurant shall not serve food or beverage to a patron at a sidewalk cafe unless that patron is seated at a table or standing at a bar table.
- Section 8 Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Wellsville

Local Law No. 7 of the year 1995

A local law relating to sidewalk cafes

Be it enacted by the Board of Trustees of the

Village of Wellsville as follows:

Section 1. Purposes

The sidewalk cafe 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 insure 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 2. Definition

A "sidewalk cafe" is 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 umbrellas.

Section 3. Permit Required

The Village Clerk is authorized to issue a permit for the operation of a sidewalk cafe, provided that all of the requirements of Section 4, "Conditions for Issuance of Permit" and Section 5, "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 4 and Section 5.

Section 4. Conditions for Issuance of Permit

A permit for a sidewalk cafe may only be issued to the owner or the 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 10 feet.
- (B) There shall be a minimum clear distance, exclusive of the area occupied by the sidewalk cafe, free of all obstructions (such as trees, parking meters, utility poles, street lights, etc.) in order to allow adequate pedestrian movement. The minimum amount of clear distance is noted below:

Width of Sidewalk	Minimum Clear Distance
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 and store.
- (D) No permanent structures may be affixed to the sidewalk area used for the cafe or affixed to the building abutting the area for purposes of the cafe, 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 cafe 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 is 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 cafe on public property.

- (I) Prior to the issuance of the permit, the applicant shall also file proof of insurance with the Village of Wellsville as a certificate holder with limits of twenty five thousand/fifty thousand dollars (\$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 5. Fees: Failure of Permittee to Comply

(A) A twenty five dollars (\$25.00) fee is required upon the issuance or annual renewal of the permit.

Section 6. 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 and alcoholic drinks shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk cafe, within the confines of the sidewalk cafe 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 cafe 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 cafe is not in full compliance with the State Liquor Authority's laws, rules and regulations, then the serving and consumption of alcoholic beverages in the Sidewalk Cafe shall be prohibited.
- (C) The restaurant shall not serve food or beverage to a patron at a sidewalk cafe unless that patron is seated at a table.
- (D) Sidewalk cafes and the 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 7. Penalty

An offense against the provisions of this Local Law shall be punishable by a fine of not more than two hundred fifty dollars (\$250). In addition, a violation of the provisions of this local law may be grounds for denying a sidewalk cafe permit in the subsequent year(s).

Section 8. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.