

LOCAL LAW # 5 OF 2018
A LOCAL LAW AMENDING CHAPTER 464 OF THE CITY CODE
OF THE CITY OF PORT JERVIS TO ALLOW FOR SIDEWALK CAFES

Purpose. The purpose of this local law is to amend the existing Chapter 464 of the Municipal Code in the City of Port Jervis to allow for specifications and regulations regarding sidewalk cafes.

Legislation:

New Legislation:

§464-13 of the City Code of the City of Port Jervis shall be amended to state:

§ 464-13. Placement of merchandise on sidewalk regulated.

- A. Location. No person shall place any merchandise or obstruction of any kind upon any sidewalk within the City which shall extend more than 18 inches from the building or so as to leave a space less than five feet clear and unobstructed for the use of the public, measured from the curb, or in case of any pole or other obstruction within the curblines, installed by or under the authority of the Director of Public Works in front of such building, so as to leave a space less than five feet clear and unobstructed for the use of the public from a line parallel to the curb an distant therefrom as far as the inside distance of the sidewalk base of such pole or other obstruction.
- B. Time. Any merchandise or obstruction which shall extend from any building within the 18 inches above mentioned upon any sidewalk within said City shall remain on said sidewalk only during business hours of the business selling the merchandise or using the obstruction. All articles of food shall be placed on tables or benches not less than two feet in height; and no person shall so place or suffer to remain any barrel, box, crate, or other article or any chute or device for loading or unloading goods upon any public street or place within the City as to obstruct the free passage of the public, except while actually engaged a reasonable time in loading or unloading goods.
- C. Restriction of Use. Any person seeking to display merchandise on a public right of way shall only be permitted to display merchandise that is sold in its normal course of business. No individual shall allow another vendor to use their property.
- D. Permit Required. Any person seeking to display merchandise on a public right of way shall require a permit from the Building Department of the City of Port Jervis pursuant to §464-14 of this Chapter.

§464-14 of the City Code of the City of Port Jervis shall be repealed in its entirety and replaced with the following:

§464-14. **Sidewalk Cafes and Vending.**

A. **Purpose.** The sidewalk café regulations as set forth in this chapter are designed to allow sidewalk cafes on public sidewalks, between the primary structure on the property and the public road it abuts, and to promote the public health, safety and general welfare.

1. To provide adequate space for pedestrians on the sidewalk adjacent to sidewalk café areas and to ensure access to adjacent commercial and retail uses.
2. To preserve and enhance the character of neighborhoods through the City and to protect adjacent residential areas.
3. To simplify administrative and strengthen enforcement procedures for outdoor and sidewalk cafes that are effective, efficient and enforceable.

B. **Definitions.**

1. **Sidewalk.** Any area between the curb line and a structure, whether publicly or privately owned, which is used by the public or open to use by the public.
2. **Sidewalk Café.** An outdoor dining area, located on a private sidewalk or public property, 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 a retractable awning or umbrellas, or other nonpermanent covers.

C. **Permit Required.**

1. No person shall engage in the operation of a sidewalk café or vending except upon the granting of a permit by the Building Department pursuant to this chapter and in accordance with the terms and conditions of such permit. The permit application shall take such form as determined by the Building Inspector.
2. Permits shall be issued on or after January 1 of each year. All permits, regardless of when issued, shall expire on December 31, and shall be renewed each year thereafter.
3. A permit to operate a sidewalk café or vending shall be issued only to the owner of the business which operates the proposed sidewalk café or vending. Sidewalk café or vending permits are non-transferrable. In the event of a change of ownership of a business which operates a sidewalk café, a new permit must be obtained prior to the continued operation of the sidewalk café.
4. A permit may be revoked at any time for any violation of this Chapter, any other violation of the Code of the City of Port Jervis, or any violation of applicable New York State or Federal regulations.
5. Application for a permit shall be subject to a fee set by Resolution of the Common Council.

D. **Permitted Use.** Sidewalk Cafes and Vending shall be permitted on the sidewalk in front of the principal place of business. The front of the principal place of business shall be

defined as to space extending from the primary front of the building and the public street it abuts.

E. Special Provisions for Sidewalk Cafes. Sidewalk Cafes shall be permitted uses in the Central Business District (CBD) and Service Commercial (SC) Zoning Districts under the following conditions:

1. It is an accessory use to a food service establishment, restaurant, bar establishment lawfully operating on the first floor of premises.
2. It is operated by the entity which operates the food service, restaurant or bar establishment.
3. It shall be located adjacent to the primary structure on the premises and may not be separate from the primary structure by normal pedestrian use.
4. All food and beverages to be served or consumed at sidewalk cafes shall be prepared within the existing food service establishment. The food service establishment shall not serve food or beverages to a patron at a sidewalk café area unless the patron is seated at a table.
5. Any area designated for the possession of open containers, as defined by Chapter 210 of the City Code of the City of Port Jervis, is clearly separated from the rest of the public sidewalk by an appropriate barrier which shall include weighted stanchions and fencing with a minimum height of thirty-six (36) inches and a maximum height of forty two (42) inches.
6. Such barrier shall be of a type of material that is consistent with the aesthetic of the neighborhood as determined by the Code Enforcement Officer. Such barrier shall be made of steel or iron, and weighted to prevent movement from the designated area.
7. No permanent structure may be affixed to the sidewalk or any building.
8. The sidewalk café area shall not violate the minimum sidewalk clearance required for a public sidewalk under the Americans with Disabilities Act, the regulations of the New York State Department of Transportation, or any other applicable New York State or Federal statutory requirements.
9. Sidewalk Café area shall not block FDC Connection.
10. No sidewalk café shall operate after 10:00 p.m. or when the establishment for which it is associated is not open to the public.
11. The public property on which sidewalk cafes 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 and surrounding premises free of litter at all times.
12. No live or mechanical music shall be permitted outdoors in the sidewalk café area.

F. Penalties for Offenses.

1. The applicant shall be responsible for any damage caused to any sidewalk or public property as a result of the applicant's operations under this chapter.
2. The Building Inspector shall have the power to revoke a permit for violation of any provision contained herein.
3. Any violation of this section shall also be subject to penalties as set forth in Article I of the City Code of the City of Port Jervis.

The Schedule of District Regulations of the City of Port Jervis shall be amended to add “Sidewalk Café” as an Accessory Use in the Central Business District (CBD) and Service Commercial (SC) Zoning Districts.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE CITY LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE CITY TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK, SECTION 10. THE CITY HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.