

BOROUGH OF GLEN ROCK

ORDINANCE NO. 1914

AN ORDINANCE AMENDING CHAPTER 116, ARTICLE II RESPECTING SIDEWALK CAFES AND OUTDOOR SEATING

BE IT ORDAINED by the Mayor and Council of the Borough of Glen Rock, Bergen County, New Jersey, as follows:

SECTION 1. Article II, Sidewalk Cafes, of Chapter 116, Food Establishments, of the Code of the Borough of Glen Rock is hereby amended to read in full as follows:

“ARTICLE II. Sidewalk cafes and outdoor seating

§ 116-6. Purposes.

The sidewalk cafe regulations as established by this chapter are designed to permit sidewalk cafes and outdoor seating accessory and incidental to lawfully existing dining and take-out food establishments within the C-1, C-2 and C-3 Districts as established and regulated in Chapters **66**, **137**, **146** and **230** hereof, to be located on public property immediately adjacent to such lawfully existing dining and take-out food establishments and in locations where they shall be determined to be appropriate by these regulations and all applicable related ordinances to promote and protect the public health, safety and general welfare. These general purposes shall include, among others, the following specific purposes:

- A. To ensure that adequate space will be provided for pedestrian circulation through areas where sidewalk cafes and outdoor seating are established and to ensure adequate access to adjoining properties and businesses.
- B. To encourage the establishment of sidewalk cafes and outdoor seating as one means of developing a pleasant and distinctive shopping atmosphere.

§ 116-7. Definitions.

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

SIDEWALK

That area of the public right-of-way reserved for pedestrian traffic from the curb to the front line of the building housing a dining or take-out food establishment.

SIDEWALK CAFE

The extension of the services of an existing dining establishment preparing and serving foods for consumption within an existing building or a take-out food establishment to the extent that food is permitted to be served and/or consumed

at the tables and chairs placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the dining or take-out food establishment is situated. A sidewalk cafe may contain readily removable tables and chairs but shall be otherwise unenclosed by fixed walls and open to the air except for umbrellas or other nonpermanent covers provided such covers, do not interfere with pedestrian circulation.

OUTDOOR SEATING

The extension of the services of an existing dining establishment preparing and serving foods for consumption within an existing building or a take-out food establishment to the extent that food is permitted to be consumed at the non-table seating (i.e. chairs, benches) placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the dining or take-out food establishment is situated. Outdoor seating is defined as chairs or benches and shall be otherwise unenclosed by fixed walls and open to the air except for umbrellas or other nonpermanent covers provided such covers, do not interfere with pedestrian circulation.

DINING ESTABLISHMENT

A restaurant or commercial establishment where prepared food is served and consumed on-premises to patrons

TAKE-OUT FOOD ESTABLISHMENT

A commercial establishment in which prepared food is provided to patrons for off-premises consumption.

§ 116-8. Sidewalk cafe license.

No person, firm or corporation may operate a sidewalk cafe or provide outdoor seating within the Borough of Glen Rock in any zone in which such use is permitted on a sidewalk adjacent to an existing dining or take-out food establishment operated by such person, firm or corporation unless obtaining a license from the Borough Code Enforcement Officer. Such license shall allow the operation of a sidewalk cafe or placement of outdoor seating between March 1 and November 30 of the year in the year in which it is issued and shall be renewed annually during the month of January.

§ 116-9. Location.

No license shall be issued hereunder unless the licensee shall demonstrate that a minimum of 42 inches of unobstructed paved sidewalk surface is available for pedestrian traffic around or through such sidewalk cafe or outdoor seating and that such sidewalk cafe or outdoor seating shall be directly in front of a dining or take-out establishment as hereinabove defined. The term "directly in front of" shall confine the sidewalk café an outdoor seating to the area represented by an extension of each side of the store occupied by the dining or take-out establishment projected directly to the curblin immediately in front thereof.

§ 116-10. Application for license.

Application for the license required hereunder shall be made to the Code Enforcement Officer and shall be signed by the applicant. The application shall contain the following information:

- A. The name, residence address and telephone number of each individual, owner or partner, or if a limited liability company, the name, residence address and telephone numbers of all members and the name of the managing member, if any, or if a domestic corporation, the names, residence addresses and telephone numbers of the directors and officers owning a ten-percent or greater interest in the corporation and the chief operating executive of the corporation, and if a nondomestic corporation, the name, residence address and telephone number of the managing officer for service of process within the State of New Jersey and a copy of the qualification of said nondomestic corporation to conduct business in the State of New Jersey.
- B. A copy of the trade, corporate, business or fictitious name upon which the applicant intends to do business pursuant to this article.
- C. The address and description of each place where the applicant intends to establish or operate a sidewalk café or provide outdoor seating.
- D. The name and address of the person owning the premises (if other than the applicant), and the consent of the owner of the premises to the application.
- E. Three sets of a proposed layout plan containing scaled drawings clearly illustrating the number, type of materials, color and location of all tables, chairs, benches, umbrellas or other furnishings or fixtures intended to be located in the sidewalk café or outdoor seating area. Sidewalk umbrellas are permitted and may also contain the name or logo of the of the business referenced in § **116-10B**. The scaled drawings shall also illustrate the following:
 1. The location of any doors leading from the eating establishment to the sidewalk café or outdoor seating area. No such doors may be obstructed in any manner.
 2. The number of feet and location of unobstructed space permitting free passage of pedestrian traffic around or through each sidewalk café or outdoor seating area.
 3. The location of any portable heaters. Use of heaters require a permit from the Department of Fire Prevention.
 4. The location of all fire hydrants, parking meters, utility poles, benches, handicap ramps, street furniture, trees and any other fixtures permanently located on the sidewalk in front of the eating establishment or within 10 feet thereof on either or any side.
- F. An application fee as set forth in Chapter **101** of the Code of the Borough of Glen Rock.
- G. Conditions for issuance of license. Upon approval by the Borough Code Enforcement Officer of the application and plans submitted by the applicant pursuant to this article, the Borough Code Enforcement Officer shall issue a license to the applicant, provided the applicant has furnished the following to the Borough:

1. An agreement signed by the applicant indemnifying and holding the Borough harmless against loss, including costs and expenses, resulting from injury to person(s) or property as a direct or indirect result of the operation of the sidewalk café and/or outdoor seating or for injury to person(s) or property occurring on the premises occupied by the sidewalk café and/or outdoor seating and to repair any damage caused to the sidewalk in the operation of the sidewalk café or outdoor seating at the expense of the applicant. The applicant shall provide a certificate of insurance as evidence of the required policy to the Borough, and naming the Borough as a named insured, in the amounts required under § 116-16 hereof.
- H. Rules, regulations and specifications. A sidewalk café and/or outdoor seating authorized and operated pursuant to this article shall comply with all of the following rules, regulations and specifications:
1. The applicant and/or operator shall fully comply with all plans submitted and approved by the Borough Code Enforcement Officer under the terms of this article.
 2. The area of operation shall be kept clean and free of litter.
 3. Music and any other form of entertainment is prohibited.
 4. The operator shall provide that tables, chairs, benches and other materials do not interfere with the required open areas and pedestrian traffic. Chairs and benches next to the pedestrian walkway shall be placed so as not to obstruct the pedestrian walkway. Where there are obstructions, such as light posts and mailboxes, which would cause the pedestrian aisle to be less than three feet wide, the Borough Code Enforcement Officer shall have the discretion to approve an alternate arrangement.
 5. Shade coverings, such as umbrellas, shall be permitted provided that no part of the shade covering extends into the required three-foot unobstructed pedestrian access area, is anchored securely against wind and is removed or retracted during the closing hours. The lowest point of any shade covering shall be no lower than 7 feet from the ground.
 6. No vending machines of any kind shall be permitted on the exterior of any building operating a sidewalk café or outdoor seating area.
 7. No food or drinks served or consumed at such sidewalk cafe or outdoor seating area shall be prepared or stored other than in the interior of the dining or take-out food establishment.
 8. Seating provided in a sidewalk café or outdoor seating area shall be exempt from the calculation of parking requirements for the associated dining or take-out food establishment.
 9. The operator shall comply with all the requirements of N.J.A.C. 8:24-1 et seq., also known as Chapter XII of the New Jersey Sanitary Code, and N.J.S.A. 24:15-1 et seq.
 10. The operator shall comply with all other federal, state, county or municipal laws or regulations.

§ 116-11. Review of application.

The Code Enforcement Officer will review the application for completeness and compliance with the terms of this article. If the application is complete, the Code Enforcement Officer will act upon the same within 10 business days of the submittal of the application or within 10 business days after the application becomes complete. If the application is not complete, the Code Enforcement Officer will so notify the applicant within 10 business days of the submission and specifically detail the areas in which the application lacks compliance with the requirements of this article.

§ 116-12. Issuance of license.

If the application complies with this article, the Code Enforcement Officer shall issue a license strictly subject to the terms and conditions of this article. Licenses are valid for one calendar year.

§ 116-13. Transfer of license.

The license is personal to the applicant, and any change or transfer of ownership of the applicant shall terminate the license and shall require a new application and a new license in conformance with all of the requirements of this article.

§ 116-14. Inspections.

Acceptance of the license by the applicant shall operate as a consent to the health, fire, police and building officials of the Borough to inspect the sidewalk cafe or outdoor seating area and associated dining or take-out establishment for continued compliance with the terms and conditions of this article and any federal, state, County or local law, article or regulation affecting the same.

§ 116-15. Indemnification of Borough.

No license required by this article shall be granted to any person to operate an sidewalk cafe or outdoor seating area until such person shall have filed with the Code Enforcement Officer a statement agreeing to indemnify and hold harmless the Borough of Glen Rock, its agents, servants, representatives or employees from any or all claims, damages, judgment costs or expenses, including attorneys' fees, which they or any of them may incur or be required to pay because of any personal injury, including death, or property damage suffered by any person or persons as a result of or related in any way to the operation and maintenance of the sidewalk café or outdoor seating area for which the license is issued.

§ 116-16. Liability insurance requirement.

- A. No license required by this article shall be granted to any person to operate a sidewalk cafe or outdoor seating area until such person shall have first filed with the Code Enforcement Officer a comprehensive general liability policy issued to such person by a public liability insurance company authorized to do business in the State of New Jersey affording the coverages set forth below in the amounts

specified. Such insurance policy shall name the Borough of Glen Rock, 1 Harding Plaza, Glen Rock, New Jersey 07452, its agents, officers, servants, representatives and employees as additional insureds with respect to the operation and maintenance of the sidewalk cafe or outdoor seating area in the following amounts:

1. Bodily injury.
 - (a) Each person: \$300,000.
 - (b) Each accident: \$1,000,000.
 2. Property damage.
 - (a) Each person: \$300,000.
 - (b) Each accident: \$1,000,000.
- B. The insurance coverage required by this section shall at all times be maintained for the full amount. The policy of insurance required by this section to be filed with the Code Enforcement Officer shall contain a clause obligating the company issuing the same to give not less than 30 days' written notice to the Borough Clerk before cancellation or amendments of any of the terms thereof. Notice of cancellation shall not relieve the company issuing such policy of liability for any injury or claim arising before the cancellation becomes effective. The cancellation of any such policy shall have the immediate effect of suspending the license of such person to operate the sidewalk cafe or outdoor seating area covered thereby until a new policy complying with the provisions of this section is filed with the Code Enforcement Officer and a letter in writing confirming the new effective date of the license is issued by the Code Enforcement Officer.
- C. Every insurance policy required hereunder shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon, that the liability of the insured shall not be affected by the insolvency or the bankruptcy of the insured, and that until the policy is canceled the insurance company will not be relieved from liability on account of nonpayment of premium or of any act or omission by the named insured. Such policy of insurance shall be further conditioned for the payment of any and all judgments up to the limits of such policy.

§ 116-17. Revocation or suspension of license.

Any license issued hereunder is issued solely as a revocable license, which shall be subject to revocation or suspension by the Borough Code Enforcement Officer for failure of any licensee to comply with this article or for violation of any other applicable federal, state, County or municipal law, regulation or article. Any license issued hereunder is issued upon the express understanding that the licensee obtains no property right thereunder, nor any interest in the continuation of said license.

§ 116-18. Operation without license unlawful.

It shall be unlawful for any person to operate a sidewalk café and/or outdoor seating after the suspension or termination of the applicable license.

§ 116-19. Property maintenance.

Each licensee is responsible for keeping the area of the sidewalk café, outdoor seating area and the adjacent walks and streets free and clear of any debris, including leaves, ice, or accumulating precipitation, and litter occasioned by the sidewalk café or outdoor seating. Areas must be cleaned as needed and at the time that business is closed and at the beginning of each business day, but not later than 9:00 a.m. Sidewalks shall be washed and kept free of all debris, including leaves, ice, or accumulating precipitation, and litter. All foreign substances shall be removed from the sidewalk surface.

§ 116-20. Additional rights of Borough.

In addition to the powers of suspension or revocation as set forth above, the Borough reserves the right to modify, suspend or revoke any license on 10 days' written notice if the Borough determines that pedestrian traffic is, in fact, impeded or made unsafe because of the operation of the sidewalk cafe or because of any other safety issue which the Borough determines adversely affects the Borough because of such operation. The license may also be suspended or revoked on five days' written notice in the event that the Borough determines that it is necessary to utilize the area or any part thereof for the maintenance or installation of the sidewalk or underground utilities. In the event of an emergency, which emergency is certified by the Borough Administrator or Department of Emergency Management, the license may be suspended or revoked without notice.

§ 116-21. Alcoholic beverage control license.

If the applicant is the holder of an alcoholic beverage control license pursuant to the laws of the State of New Jersey, it shall be the applicant's responsibility to cause the alcohol beverage control license to be amended to include the premises utilized for sidewalk cafe or outdoor seating purposes in order to serve alcoholic beverages therein.

§ 116-22. Equipment.

No tables, chairs, benches or other equipment used in the sidewalk café or outdoor seating area shall be attached, chained or in any manner affixed to any tree, post, sign, curb or sidewalk or property of the Borough of Glen Rock within or near the licensed area.

§ 116-23. Hours of operation.

No sidewalk cafe shall be open for business prior to 9:00 a.m. nor remain open for business after 11:00 p.m. All persons occupying the sidewalk cafe shall vacate the same no later than 11:30 p.m.

§ 116-24. Table service.

Table service is required at dining establishments only.

§ 116-25. Terms and conditions of license.

The Borough of Glen Rock shall issue a license certificate upon payment in full of the appropriate annual fee and compliance by the applicant of the prerequisites set forth in this article. The licensee is required to display the license certificate prominently in the front window, facing towards the sidewalk of the establishment. Failure to properly display the requisite license certificate shall result in suspension or termination of the license by order of the Code Enforcement Officer.

SECTION 2. § 101-24, Miscellaneous Fees, of Chapter 101, Fees, of the Code of the Borough of Glen Rock is hereby amended and supplemented to add thereto the following fee:

“B. Sidewalk Cafes and Outdoor Seating	
1-6 seats (each 24” for benches)	\$75.00/annum
7-10 seats	\$125.00/annum
11 seats or more	\$150.00/annum”

SECTION 3. Severability.

If any section, sentence, clause or other portion of this ordinance, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such judgement shall not affect, impair or repeal the remainder of this ordinance.

SECTION 4. Inconsistency.

All ordinances or parts thereof inconsistent with the provisions hereof, are hereby superseded to the extent of such inconsistency.

SECTION 5. Effective date.

This ordinance shall take effect immediately following passage and publication as required by law.

Approved: _____
Kristine Morieko, Mayor

Attested: _____
Jacqueline Scalia, Borough Clerk

Introduced: _____

Adopted: _____