

Chance Mullen
Mayor



Christopher Scelza
Village Administrator

To Whom it May Concern,

Enclosed, please find a copy of the Sidewalk Café Permit Application with instructions and the Sidewalk Café Code. Please read the Village of Pelham Sidewalk Café Code very carefully.

If you plan on applying for a Sidewalk Café Permit, please have your drawings for the placement with all compliant measurements, pictures of furniture and/or barriers (if more than two tables) for approval, along with a signed hold harmless waiver and a current insurance certificate, naming the Village of Pelham as additionally insured, submitted to Village Hall Offices at 200 Fifth Avenue or via email to info@pelhamny.gov. Sidewalk Cafes are permitted from April 15th through November 30th with a permit.

As per § 75-3 (e) of the Village of Pelham Code, “The specific location of tables, chairs and any other structures related to the sidewalk café shall be approved by the Building Inspector. The Building Inspector shall have authority to determine that tables, chairs, or other structures associated with the sidewalk café shall not be placed in certain locations, notwithstanding those other locational criteria outlined in this chapter may be satisfied.”

Pedestrian or vehicular traffic shall not be impeded or obstructed due to the location of a sidewalk café. Every sidewalk café must comply with the Village Code. The Village Board of Trustees may revoke a permit if a permittee has violated any provision outlined in this chapter or by any other law, ordinance, rule, or regulation applicable to any use conducted on the premises of which the sidewalk café is a part.

Please be advised that all tables and other outdoor furniture must not be placed outside before April 15th. If it is placed outside prior to this date, REGARDLESS OF YOUR APPLICATION STATUS, you will be ticketed and your approval will be revoked.

Thank you in advance for your cooperation.

Sincerely,

Adriana Rugova
Village Clerk

THE VILLAGE OF PELHAM SIDEWALK RETAIL USE LICENSE AND PERMIT APPLICATION

DATE

ADDRESS

BUSINESS NAME

BUSINESS OWNER
NAME

PHONE NUMBER

EMAIL

APPLICANT
SIGNATURE

PROPERTY OWNER
SIGNATURE

BUILDING
INSPECTOR
APPROVAL AND/OR
COMMENTS:

Pursuant to Executive Law § 24(1)(c) and (e), the following regulations apply to retail stores:

- (a) Retail establishments are permitted to apply for a Sidewalk Café Permit pursuant to Pelham Village Code § 75-6 in order to operate on the sidewalk. Retail establishments' sidewalk operations are subject to the same standards as sidewalk cafes and must abide by Pelham Village Code §§ 75-3, 75-4(A), 75-4(D), 75-4(E), 75-4(F), 75-4(G), 75-4(K), 75-4(L), 75-4(M), and 75-5. Pedestrian or vehicular traffic shall not be impeded or obstructed as a result of the location of a sidewalk retail use. Retail use must comply with the Sidewalk Café Village Code. A permit may be revoked by the Board of Trustees in the event that a permittee has violated any provision set forth in this chapter or any other law, ordinance, rule or regulations applicable to any use being conducted on the premises of which the sidewalk retail use is a part.

DATE

INSURANCE
CERTIFICATE

HOLD

HARMLESS

INSTRUCTIONS FOR APPLYING FOR A SIDEWALK CAFÉ LICENSE AND PERMIT

1. The applicant shall furnish pictures, size and color of the proposed café furniture, barriers, planters and any other structures or furnishings which will form a part of the Sidewalk Café, and a drawing of the proposed placement of said furniture, barriers, planters, umbrella's etc. with all measurements and submit the application to the Village Clerk. Previously approved furniture still requires a picture to be submitted.
2. The application can be submitted to info@pelhamny.gov or returned to Village Hall Offices at 200 Fifth Avenue during regular business hours, Monday through Friday 9:00 AM to 4:30 PM.
3. A certificate of liability insurance, acceptable to the Village, stating that an application for a permit has, in full force and effect, public liability and property damage insurance. The certificate shall name the Village, its Board of Trustees, officers, employees and agents as additionally insured. The certificate of insurance shall state that such insurance shall not be canceled or revoked prior to 30 days written notice to the Village.
4. Include a check for \$250.00 made payable to the Village of Pelham.
5. Complete the enclosed Hold Harmless Waiver and return with your application.

PLEASE BE ADVISED THAT THE SIDEWALK CAFÉ PERMIT APPLICATION CANNOT BE PROCESSED OR APPROVED UNTIL THE OPERATING PERMIT FEE HAS BEEN PAID IN FULL. FAILURE TO SUBMIT THE REQUIRED FEE WILL RESULT IN A DELAY OR DENIAL OF THE PERMIT.

This is to certify that I am fully aware and understand the steps that need to be taken when applying for a Sidewalk Café License and permit and that I have fully read the above directions and the Sidewalk Café Ordinance.

Applicant's Signature

Date

WAIVER AND RELEASE OF LIABILITY

IN CONNECTION WITH work to be performed and/or other activities (collectively, the “activities” to be conducted at:

I, _____, with and address of _____

_____, on behalf of myself and/or as the duly designated representative of _____, with an address of _____

_____, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged:

HEREBY AGREE TO WAIVE, RELEASE, AND DISCHARGE the Village of Pelham and its officials, servants, agents, assigns, employees, insurers and/or representatives (collectively, the “Village of Pelham”) from any and all liability including, without limitation, liability for death, disability, personal injury, property damage, actions and/or claims of any kind that may hereafter occur related to the activities; and

HEREBY AGREE TO INDEMNIFY, HOLD HARMLESS, AND FURTHER AGREE NOT TO INITIATE ANY LEGAL ACTION AGAINST THE VILLAGE OF PELHAM from or for any and all liabilities or claims related to the activities.

I CERTIFY THAT I HAVE READ THIS DOCUMENT AND I FULLY UNDERSTAND ITS CONTENT. I AM AWARE THAT THIS DOCUMENT IS A RELEASE OF LIABILITY AND A CONTRACT AND I SIGN IT OF MY OWN FREE WILL.

Signature

Date

Witness Signature

Date

Chapter 75

SIDEWALK CAFES

§ 75-1.	Purpose and intent.	§ 75-5.	Hours of operation.
§ 75-2.	Definitions.	§ 75-6.	Licensing/permit requirements; security deposit.
§ 75-3.	Location.	§ 75-7.	Partial invalidity.
§ 75-4.	Standards.		

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham 6-17-1997 by L.L. No. 1-1997. Amendments noted where applicable.]

§ 75-1. Purpose and intent.

It is the intent of the Board of Trustees to permit sidewalk cafes in the business districts of the Village. The purpose of this chapter is to regulate such use. The regulations set forth below are intended to enhance the downtown business districts and, make them more attractive, yet ensure the safety and health of the public and not restrict public passage as a result of such sidewalk cafes.

§ 75-2. Definitions.

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

FOOD SERVICE ESTABLISHMENT — A location where food is prepared and intended for individual portion service and that either the Westchester County Department of Health or New York State Department of Agriculture and Markets regulates. **[Added 5-7-2013 by L.L. No. 2-2013]**

SIDEWALK CAFE — An outdoor eating area that is: **[Amended 5-7-2013 by L.L. No. 2-2013]**

- A. Located on a public sidewalk adjoining a food service establishment;
- B. Operated by the adjacent food service establishment;
- C. Comprised of readily removable furniture and furnishings, such as umbrellas, railings, and planters; and
- D. Open to the air, except that a retractable awning is permitted.

§ 75-3. Location.

- A. Sidewalk cafes may be located on private and/or public property in the business districts of the Village of Pelham. Such districts shall be limited to those zoned B-1, B-2 and B-3, as set forth in Chapter 98 of this Code.
- B. Pedestrian or vehicular traffic shall not be impeded or obstructed as a result of the location of a sidewalk cafe.
- C. There shall be at least four feet of open and unobstructed area from the location of any furnishings, property or structures associated with the sidewalk cafe to the curb, free from all obstructions, such as trees, parking meters, utility poles and the like, in order to allow adequate pedestrian movement.

- D. Sidewalk cafes shall not interfere with any public service facilities, such as telephones, mailboxes or benches, located on the sidewalk or the public right-of-way.
- E. The specific location of tables, chairs and any other structures related to the sidewalk cafe shall be approved by the Building Inspector. The Inspector shall have authority to determine that tables, chairs or other structures associated with the sidewalk cafe shall not be placed in certain locations, notwithstanding that other locational criteria set forth in this chapter may be satisfied. **[Amended 11-21-2006 by L.L. No. 4-2006]**
- F. A sidewalk cafe shall be located only directly in front of the food service establishment with which it is associated, and it shall be operated solely in conjunction with such food service establishment. **[Amended 5-7-2013 by L.L. No. 2-2013]**

§ 75-4. Standards.

- A. All furniture shall be of metal or wood construction and shall be white or of a dark color, shall be uniform and shall be reviewed by the Architectural Review Board prior to approval by the Building Inspector. In the event that the Building Inspector does not adopt the recommendation of the Architectural Review Board, the matter shall be brought before the Village Board of Trustees for a final decision. **[Amended 11-21-2006 by L.L. No. 4-2006]**
- B. In the event that the sidewalk cafe contains three or more tables, the cafe area shall be delineated by the use of an easily visible barrier, such as a planter(s) or railing, so as to physically separate patrons of the cafe from pedestrians. Tabletops shall be round or square and shall not exceed 36 inches in diameter or length of each side, respectively.
- C. In the event that the sidewalk cafe contains two or fewer tables, such tables shall be placed against the appurtenant building with no chairs between the building and the tables. Tabletops shall be round or square and shall not exceed 36 inches in diameter or length of each side, respectively.
- D. Furnishings or structures shall not be attached, temporarily or permanently, to the sidewalk or any other public property, provided that railings may be secured by means of flush-mounted anchors in a manner approved by the Building Inspector. The permittee shall be responsible for any sidewalk damage incurred. **[Amended 11-21-2006 by L.L. No. 4-2006]**
- E. No furnishings or structures which form a part of the sidewalk cafe shall be attached, temporarily or permanently, to any building or structure abutting the cafe.
- F. Umbrellas may be permitted. Every umbrella must be secured in a device that the manufacturer of the umbrella designed to anchor the umbrella. There must be a clearance of seven feet between the sidewalk and the lowest edge of the umbrella. Notwithstanding anything to the contrary set forth in this Code, such umbrellas shall be approved by the Architectural Review Board. **[Amended 5-7-2013 by L.L. No. 2-2013]**
- G. Sound amplification and public address systems and equipment shall be prohibited. Areas approved for sidewalk cafes shall not be utilized for live performance or recorded audio transmissions.
- H. Chairs and tables shall not be utilized for the display of merchandise or the advertising of goods or services.
- I. During hours of daylight, alcoholic beverages may be served solely in conjunction with the service of food. Subsequent to sundown, alcoholic beverages may be served in the absence of service of food. All alcoholic beverages shall be prepared within the appurtenant food service establishment and shall

be served solely to patrons seated at sidewalk cafe tables. The consumption of alcoholic beverages by a member of the public, while a patron at a sidewalk cafe, within the confines of the area of the sidewalk cafe, shall not be a violation of any local law, ordinance, rule or regulation relating to open alcoholic containers in a public area. **[Amended 5-7-2013 by L.L. No. 2-2013]**

- J. ¹No patron at a sidewalk cafe shall be served food or beverages unless said patron is seated at a table.
- K. The permittee is responsible, at all times, for the cleanliness of the cafe, as well as the cleanliness of the abutting sidewalk and curb areas.
- L. No structure, container or enclosure for garbage or rubbish may be erected or placed adjacent to or within the confines of the sidewalk cafe.
- M. Tables located on private property abutting a public sidewalk shall comply with the standards set forth in this chapter.

§ 75-5. Hours of operation.

- A. Sidewalk cafes shall not operate prior to 8:00 a.m. or subsequent to 10:00 p.m. on any day.
- B. The actual hours of operation of each sidewalk cafe shall be posted in a visible location.
- C. Chairs shall be removed from a sidewalk cafe no later than 10:00 p.m. each evening. Tables and barriers, if any, shall be removed from the sidewalk abutting the sidewalk cafe at the time the food service establishment closes. No food service establishment providing a sidewalk cafe shall permit members of the public to congregate in the cafe area after 10:00 p.m. Failure to enforce this provision may result in revocation of the applicable permit. **[Amended 5-7-2013 by L.L. No. 2-2013]**
- D. During periods when the food service establishment with which a sidewalk cafe is associated is closed for business, chairs, tables and barriers shall be removed from the sidewalk. **[Amended 5-7-2013 by L.L. No. 2-2013]**

§ 75-6. Licensing/permit requirements; security deposit.

- A. Sidewalk cafes may operate from April 15 to November 30. **[Amended 12-12-2023 by L.L. No. 5-2023]**
- B. An annual permit, secured from the Building Inspector, shall be required for all sidewalk cafe operations. The Board of Trustees shall, by general resolution, establish the permit fee for sidewalk cafes. In the event that the Building Inspector shall deny any application for a sidewalk cafe, it shall provide the applicant with the reasons for the denial in writing. An applicant may appeal such denial to the Village Board of Trustees, which shall have the power to affirm, reverse or modify the decision of the Building Inspector. Any such appeal must be taken within 30 days of the date of the Building Inspector denial. All decisions of Board of Trustees shall be final. **[Amended 11-21-2006 by L.L. No. 4-2006]**
- C. A permit may be revoked by the Board of Trustees in the event that a permittee has violated any provision set forth in this chapter or any other law, ordinance, rule or regulation applicable to any use being conducted on the premises of which the sidewalk cafe is a part.

1. Editor's Note: Former Subsection J, regarding the requirement for waitress or waiter service, and former Subsection L, regarding the prohibition of disposable paper or plastic goods, were repealed 5-7-2013 by L.L. No. 2-2013. Former Subsections K, M, N, and O were redesignated as Subsections J, K, L, and M, respectively.

- D. All applications for a permit to operate a sidewalk cafe shall bear the signature of the owner/operator of the food service establishment. **[Amended 5-7-2013 by L.L. No. 2-2013]**
- E. A letter of application for a permit to operate a sidewalk cafe shall be submitted to the Building Inspector and shall include, at a minimum, the following information: **[Amended 11-21-2006 by L.L. No. 4-2006]**
- (1) The name, address and title of the applicant.
 - (2) The name and address of the property owner, if different from the applicant.
 - (3) Consent of the owner of the property to submit the application, in the event that the applicant is not the owner.
 - (4) An agreement to indemnify, defend and save harmless the Village, its Board of Trustees, officers, employees and agents from and against any claim, loss, liability or damage, including reasonable attorneys' fees, resulting from bodily injury, including death and property damage, sustained by any person as a result of a permittee's operation of a sidewalk cafe on public property.
 - (5) A certificate of insurance, acceptable to the Village, stating that an applicant for a permit has, in full force and effect, public liability and property damage insurance. The certificate shall name the Village, its Board of Trustees, officers, employees and agents as additional insureds. The certificate of insurance shall state that such insurance shall not be canceled or revoked prior to 30 days' written notice to the Village.
 - (6) A drawing or rendering of the placement of tables, chairs, barriers, planters and any other structures or furnishings which will form a part of the sidewalk cafe.
- F. The Board of Trustees shall, by general resolution, establish a refundable deposit which shall be furnished to the Village prior to the issuance of any permit. Such deposit shall be retained by the Village as security for the faithful performance of the terms and conditions set forth in this chapter and in the issued permit. Upon the failure of a permittee to comply with such conditions or upon default by the permittee, the deposit may be utilized by the Village for expenses incurred by the Village relating to requirements of this chapter or any other applicable law, ordinance, rule or regulation. No prior notice shall be necessary to utilize the deposit set forth herein. No permittee shall have any claim whatsoever against the Village for loss of any anticipated profits or for any other losses which may be sustained by actions of the Village. Upon the expiration of any permit, the full amount of the deposit or balance thereof (in the event that expenses have been incurred by the Village) shall be returned to the permittee.

§ 75-7. Partial invalidity. [Added 5-7-2013 by L.L. No. 2-2013]

If any section of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this chapter.