

**BOROUGH OF HAWORTH
APPLICATION FOR OUTDOOR CAFE**

Annual Application Fee: \$250.00

DATE OF APPLICATION: _____

NAME OF APPLICANT: _____

HOME ADDRESS: _____

TELEPHONE NUMBER: _____

NAME OF RETAIL FOOD SERVICE ESTABLISHMENT:

NAME OF PROPERTY OWNER: _____

STREET ADDRESS OF PROPERTY: _____

BLOCK _____ LOT _____

If applicant is not property owner, the following must be completed:

I, _____, owner of property located at _____ by hereby authorize _____ to apply for an outdoor cafe located at my property.

Owner

CURRENT INDOOR SEATING CAPACITY _____

PROPOSED OUTDOOR SEATING CAPACITY _____

PARKING SPACES ON PROPERTY _____

NOTE: No outdoor cafe shall be open for business prior to March 1st or after November 30th. No outdoor cafe shall be open for business prior to 8:00 AM nor remain open for business after 11:00 PM. All persons occupying the outdoor cafe shall vacate the same no later than 11:30 PM.

Attach to this application three (3) sets of proposed layout plan, containing scaled drawings clearly illustrating the number, type of materials, color and location of all tables, chairs, umbrellas, plantings, electrical outlets and other furnishings or fixtures intended to be located in the outdoor cafe. The perimeter of an outdoor dining area shall be defined and set off by a portable-type enclosure, which may include live plantings. Any such enclosure that defines the perimeter of the outdoor cafe area shall separate the outdoor dining area from the pedestrians traversing the adjacent sidewalk, shall not contain doors or windows, air conditioning or heating equipment and shall be open at all times to the air from a height of not more than three (3) feet. Awnings or outdoor umbrellas extending over the enclosure are permitted. The scaled drawings shall also illustrate the following:

- (1) The location of any doors leading from the retail food service establishment to the outdoor cafe. No such doors shall be obstructed in any manner.
- (2) The dimension and location of unobstructed space permitting free passage of pedestrian traffic around or through each outdoor cafe.
- (3) An illustration of the complete enclosure or protective barrier, including the base, separating the eating and serving area of each outdoor cafe from pedestrian and/or vehicular movement.
- (4) The location of all fire hydrants, utility poles, benches, handicap ramps, street furniture, trees and any other fixtures permanently located on the sidewalk in front of the retail food service establishment or within ten (10) feet thereof on either or any side.
- (5) The type and location of any proposed outdoor lighting and fixtures.

_____ Signature of Applicant _____ Date

OFFICIAL USE ONLY

REFERRALS	CHIEF OF POLICE	_____
	FIRE CODE OFFICIAL	_____
	BOARD OF HEALTH	_____
	BOROUGH ENGINEER	_____

APPLICATION COMPLETE _____ INCOMPLETE _____

OUTSTANDING CODE VIOLATIONS? Yes No

INSURANCE POLICY APPROVED? Yes No

HOLD HARMLESS STATEMENT OBTAINED? Yes No

Chapter 4. Licensing and Business Regulations

Article I. Uniform Licensing Procedures

§ 4-21. OUTDOOR CAFES.

§ 4-21.1. Purpose.

[Ord. No. 12-03 § 1]

The purpose of this section is to establish a procedure for the licensing of outdoor cafes in the Business Zone D of the Borough of Haworth, and to authorize the appropriate rules and regulations to regulate this activity in order to ensure that the health, safety and welfare of the Borough is protected.

§ 4-21.2. Definitions.

[Ord. No. 12-03 § 1]

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

OUTDOOR CAFÉ

Shall mean any eating establishment where food and other refreshments are served to the public upon the public right-of-way, namely the sidewalks directly in front of any licensed retail food service establishment, as defined in Section **BH1-2** of the Revised Health Code of the Borough of Haworth. For the purpose of this section, the term "directly in front of " shall confine the outdoor café to the area represented by an extension of each side of the store occupied by the retail food service establishment projected directly to the curb line immediately in front thereof.

PERSON

Shall mean any individual, partnership, corporation, limited liability company, association or other entity.

SIDEWALK

Shall mean that area of the public right-of-way reserved for pedestrian traffic from the curb to the front line of the building housing a retail food service establishment.

§ 4-21.3. License Required.

[Ord. No. 12-03 § 1]

It shall be unlawful for any person to create, establish, operate, maintain or otherwise be engaged in the business of conducting an outdoor café upon the sidewalks of the Borough of Haworth, or on private property, unless such person shall hold a currently valid license issued pursuant to the terms of this section.

§ 4-21.4. Application.

[Ord. No. 12-03 § 1]

Each applicant shall submit and file an application with the Borough Construction Code Official, together with three copies of a development plan (as described below), which shall be signed by the applicant. The application shall contain the following information:

- a. The name, residence address and telephone number of the applicant and property owner and, if the applicant is not the property owner, written authorization of the owner of the property.
- b. The street address, block and lot of the property in question.
- c. Three sets of a proposed layout plan, containing scaled drawings clearly illustrating the number, type of materials, color and location of all tables, chairs, umbrellas, plantings, electrical outlets and other furnishings or fixtures intended to be located in the outdoor café. The perimeter of an outdoor dining area shall be defined and set off by a portable-type enclosure, which may include live plantings. Any such enclosure that defines the perimeter of the outdoor café area shall separate the outdoor dining area from the pedestrians traversing the adjacent sidewalk, shall not contain doors or windows, air conditioning or heating equipment and shall be open at all times to the air from a height of not more than three feet. Awnings or outdoor umbrellas extending over the enclosure are permitted. The scaled drawings shall also illustrate the following:
 1. The location of any doors leading from the retail food service establishment to the outdoor café. No such doors shall be obstructed in any manner.
 2. The dimension and location of unobstructed space permitting free passage of pedestrian traffic around or through each outdoor café.
 3. An illustration of the enclosure or protective barrier separating the eating and serving area of each outdoor café from pedestrian and/or vehicular movement.
 4. The location of all fire hydrants, utility poles, benches, handicap ramps, street furniture, trees and any other fixtures permanently located on the sidewalk in front of the retail food service establishment or within 10 feet thereof on either or any side.
 5. The type and location of any proposed outdoor lighting and fixtures.
- d. A statement of the authorized seating capacity of the retail food service establishment and the proposed seating capacity of the outdoor café area.
- e. A statement indicating the number of parking spaces on the property serving the existing retail food service establishment.

§ 4-21.5. Application Fee.

[Ord. No. 12-03 § 1]

Each application shall be accompanied by a nonrefundable application fee in the amount of \$250.

§ 4-21.6. Completeness of Application.

[Ord. No. 12-03 § 1]

The Construction Code Official shall review the application for completeness and compliance with the terms of this section. If the application is complete, the Construction Code Official shall 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 Construction Code Official will notify the applicant of the specific deficiencies in the application, in writing, within 10 business days of the submission of the application. The Construction Code Official may refer the application to the Chief of Police, Fire Code Official, Board of Health or the Borough Engineer for their review and recommendation, in which event the time for all of the aforementioned actions shall be increased to 15 business days.

§ 4-21.7. Code Violations.

[Ord. No. 12-03 § 1]

No license shall be issued for any outdoor café if there are any outstanding code violations (i.e., zoning, property maintenance, health, building and/or fire code violation) for the retail food service establishment or the property.

§ 4-21.8. Issuance of License.

[Ord. No. 12-03 § 1]

If the application complies with this section, the Construction Code Official shall issue a license, subject to the terms and conditions of this section, which license shall be valid for a period of one year from the date of issuance.

§ 4-21.9. Change of Ownership.

[Ord. No. 12-03 § 1]

The license issued hereunder is personal to the applicant, and any change or transfer of ownership of the retail food service establishment operating the outdoor café shall terminate the license and shall require a new application and a new license in accordance with all of the requirements of this section.

§ 4-21.10. Inspections.

[Ord. No. 12-03 § 1]

Acceptance of a license by the applicant shall operate as a consent by the applicant to the Departments of Health, Fire, Police and Building of the Borough to inspect the outdoor café for continued compliance with the terms and conditions of this section and any Federal, State, County or local law, ordinance or regulation affecting same.

§ 4-21.11. Regulations.

[Ord. No. 12-03 § 1]

- a. No license shall be issued hereunder unless the applicant shall demonstrate that a minimum three foot wide area of unobstructed paved surface will be available for pedestrian movement, including the unimpeded passage of handicapped individuals, around or through the outdoor café.
- b. The outdoor café shall be operated in accordance with the layout plan as finally approved, and by the same person who operates and maintains the retail food service establishment.
- c. No food or drink, including alcoholic beverages, shall be prepared or stored other than in the interior of the retail food service establishment.
- d. Alcoholic beverages may be served outdoors in accordance with the alcoholic beverage control licensing requirements of the State of New Jersey. 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 alcoholic beverage control license to be amended to include the premises utilized for outdoor café purposes in order to serve alcoholic beverages therein.
- e. Any table service provided at the outdoor café shall be provided by persons engaged or employed for that purpose and shall be furnished to seated patrons only.

- f. No tables, chairs or other equipment shall be attached, chained or in any manner affixed to any tree, post, sign, curb or sidewalk, or to property of the Borough.
- g. The applicant shall not direct or permit to be directed to or from the outdoor café any bell, whistle, siren, loudspeaker, public address system, radio, sound amplifier or similar sound system.
- h. No outdoor café shall be open for business prior to March 1st or after November 30th. No outdoor café shall be open for business prior to 8:00 a.m. nor remain open for business after 11:00 p.m.. All persons occupying the outdoor café shall vacate the same no later than 11:30 p.m.
- i. The applicant shall remove all chairs, tables and other equipment from the sidewalk within 30 minutes of the time in which the outdoor café is vacated at the end of each business day.
- j. The number of seats provided in the outdoor café shall not increase the number of seats permitted for the retail food service establishment; i.e., for every seat in the outdoor café, the number of permitted seats in the interior of the retail food service establishment shall be reduced by one so that the number of permitted seats for the retail food service establishment shall be not be increased as a result of the outdoor café.
- k. Each licensee is responsible for keeping the area of the outdoor café and the adjacent walks and streets free and clear of any debris or litter occasioned by the café. Areas must be cleaned as needed, not less than twice daily, at the beginning of each business day, but not later than 7:00 a.m., and at the time the business closes for the evening.
- l. No signs shall be permitted in the area of the outdoor café except for signs on the façade of the retail food service establishment and on the awnings, complying with the applicable sign regulations of the Haworth Borough Code.
- m. All refuse shall be stored indoors. No refuse containers shall be permitted on the sidewalk.
- n. No vending machines of any kind are permitted on the exterior of any building operating an outdoor café.

§ 4-21.12. Insurance.

[Ord. No. 12-03 § 1]

No license required by this section shall be granted to any person to operate an outdoor café until such person shall have first filed with the Borough Clerk a comprehensive general liability insurance policy issued to the applicant by a public liability insurance company authorized to do business in the State of New Jersey in the amounts specified. Such insurance policy shall name the Borough of Haworth, its elected and appointed officials, officers, employees and agents as additional insureds with respect to the operation and maintenance of the outdoor café in the amount of one million (\$1,000,000.00) dollars combined single limit. The insurance coverage required by this section shall at all times be maintained for the full amount and shall contain a clause obligating the company issuing same to give not less than 30 days' written notice to the Borough Clerk before cancellation or amendment of any of the terms thereof. The cancellation of any such policy shall have the immediate effect of suspending the license to operate the outdoor café until a new policy complying with the provisions of this section is filed with the Borough Clerk and a letter in writing confirming the new effective date of the license is issued by the Construction Code Official. Notice of cancellation shall not relieve the company issuing such policy for any injury or claim arising before the cancellation becomes effective.

§ 4-21.13. Conditions on Insurance Policy.

[Ord. No. 12-03 § 1]

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. All policies shall be submitted to the Borough's Risk Manager for review and approval prior to the granting of a license, and annually thereafter.

§ 4-21.14. Indemnification.

[Ord. No. 12-03 § 1]

No license shall be issued until a statement is filed by the applicant with the Borough Clerk agreeing to indemnify and hold harmless the Borough of Haworth, its elected and appointed officials, officers, employees and agents from any and all claims, damages, judgments, costs or expenses, including attorneys' fees, which may be incurred or required to be paid 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 outdoor café for which the license is issued.

§ 4-21.15. Notice of Violation; Failure to Comply.

[Ord. No. 12-03 § 1]

Upon determination by the Construction Official that a licensee has violated one or more of the provisions of this section, the Construction Official may give written notice to the licensee to correct such violation within 24 hours of the receipt of such notice by the licensee. In the event the licensee fails or refuses to correct such violation within such period, the licensee's outdoor café license may thereupon be revoked. Any licensee cited for three or more violations of this section, even if corrected, may have his or her license revoked.

§ 4-21.16. Appeals.

[Ord. No. 12-03 § 1]

Any person aggrieved by any action of the Construction Official in the denial, suspension or revocation of an outdoor café license shall have the right to appeal to the Borough Council. The appeal shall be taken by filing with the Construction Official and the Borough Clerk, within 10 days after the notice of the action complained of has been served upon the licensee personally or by mail sent to the licensee at the licensed premises, a written statement setting forth the grounds for appeal. The Borough Council shall designate one of its members as hearing officer and shall set a time and a place for the appeal which, in the case of a license revocation, shall be no later than five business days after the appeal is filed, at which time the hearing officer shall conduct a hearing and affirm, modify or reverse the action appealed from.

§ 4-21.17. Revocation or Suspension of License.

[Ord. No. 12-03 § 1]

Any license issued hereunder is issued solely as a revocable license, which shall be subject to revocation or suspension by the Construction Code Official or the Mayor and Council for failure of any licensee to comply with this section, for violation of any other applicable Federal, State, County or local law, regulation or ordinance, or if access to the sidewalk is needed in connection with a public work to be performed in the area. It shall be unlawful for any person to operate an outdoor café after the suspension or revocation of the applicable license. Any license issued hereunder is issued upon the express understanding and agreement by the licensee that the licensee obtains no property right thereunder, nor any interest in the continuation or renewal of said license.

§ 4-21.18. Removal of Material.

[Ord. No. 12-03 § 1]

At the end of the license period, or in the event the license is temporarily or permanently suspended or revoked, the licensee shall, at the licensee's sole cost and expense, vacate the sidewalk space and remove any property placed thereon by the licensee. Failure to do so on five days' written notice shall grant the Borough the right to remove any property on the sidewalk; and the licensee shall reimburse the Borough for the cost incurred by the Borough in removing and storing the same.