

**SPONSORED BY:  
SECONDED BY:**

**CITY OF HOBOKEN  
ORDINANCE NO.:**

**ORDINANCE TEMPORARILY UPDATING SIDEWALK CAFE  
REGULATIONS, SIDEWALK ENCROACHMENTS AND  
AUTHORIZING A SIDEWALK SALE TO ASSIST SMALL BUSINESSES  
DURING THE COVID-19 PANDEMIC**

**WHEREAS**, businesses in Hoboken have suffered tremendously as a result of the COVID-19 Pandemic; and,

**WHEREAS**, once the current operational restrictions are lifted by Governor Murphy and businesses are permitted to re-open, under new guidelines; and,

**WHEREAS**, the City Council wants to safely support small businesses while giving residents access to outdoor amenities.

**NOW THEREFORE BE IT ORDAINED**, by the Council of the City of Hoboken that we hereby approve the following temporary changes to cafe licenses, sidewalk encroachments and authorizing a sidewalk sale.

**BE IT FURTHER ORDAINED** that all regulations updated herein shall expire at the end of the calendar year, unless extended by ordinance.

**THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN DOES HEREBY  
ORDAIN AS FOLLOWS:**

SECTION 1: The following additions shall be made to Chapter 168 of the Hoboken City Code entitled "Streets and Sidewalks"

DEFINITIONS:

PARKLETTE: A temporary and removable sidewalk extension within the parking lane of a street, operated and maintained by a legally zoned business with street-level store frontage, to which the amenity faces and aligns with. The extension, which may be at street level or at grade with the sidewalk, must comply with ADA regulations and shall not be located within 15 feet of a fire hydrant, within delineated bus dropoff zones or handicapped parking spots. Seating, where applicable, must be separate from the traffic lane by at least 2 feet by using barricades or self standing planter boxes. 36-inch tall orange reflectorized traffic cones, spaced ten-feet apart, must be placed between the barrier and traffic lane, without extending into the traffic lane. When applicable, the 25' "no parking" area within 25' of a crosswalk, the clear zone, should be utilized.

§ 168-5

Projections into streets.

A.

No person shall erect or place any stoops, steps, platforms, pedestrian ramps designed and built pursuant to the minimum standards of the Americans With Disabilities Act, windows, cellar doors, areas, descents into a cellar or basement, signs, awnings, posts or other projections in, over or upon any street in the City without the review, approval and permission of the Director of Environmental Services or his designated agent. An exception shall be made for the 2020 calendar year, allowing legally zoned retail establishments and restaurants with physical storefronts, to install a parklette on any City-managed street, except Washington Street.

§ 168-47

Special sidewalk sales and other events.

A.

Anything in this article to the contrary notwithstanding, the Council of the City of Hoboken may, from time to time, authorize by resolution the holding of a special sidewalk sale in the City. Such authorization to hold a special sidewalk sale shall be available to all merchants having a retail store within the City of Hoboken.

B.

Anything in this article to the contrary notwithstanding, the Council of the City of Hoboken may, from time to time, authorize by resolution the holding of special programs as recommended by the Director of the Division of Cultural Affairs. Such programs may include outdoor fairs and exhibitions. The Director of the Division of Cultural Affairs may also be authorized, at its request, to issue and collect special daily/weekly vendor permits for such programs at costs established by the Division and approved by the Council. All fees collected shall be turned over to the Treasurer of the City of Hoboken for deposit to

the proper municipal accounts. On the recommendation of the Division of Cultural Affairs and the approval of the Council, the foregoing special programs may include the offering and sale of arts and crafts items and related apparel, jewelry, ornamentation and the like. The Council, on the recommendation of the Director of the Division of Cultural Affairs, may grant exclusive authorization for such programs on the sidewalks, streets and public property during the period of the approved program.

C. For the 2020 calendar year:

1. Any retail establishment, with a physical storefront, along Washington Street may fully utilize the street-facing portion of the sidewalk in front of their property for retail sales. A 6' pathway for pedestrians passing between the building and the outdoor retail space must be maintained. When located at a corner, the establishment may use both front and side sidewalks for retail use, but must provide a 6' pathway for pedestrians at crosswalks. Tables and chairs, where applicable, must be spaced at least 6 feet from street lamps and other fixed obstacles and may not come within 15-feet of a fire hydrant.
2. Any retail establishment, with a physical storefront, along any City-managed street, except Washington Street, may install a parklette.
3. Any retail establishment, with a physical storefront, directly across the street from a municipal park may utilize the street-facing portion of the park sidewalk for retail use, but must leave a 6-foot pathway for pedestrians and sign a liability agreement with the City.
4. Any retail establishment, with a physical storefront, directly across the street from a municipal property may utilize the street-facing sidewalk of the City's property for retail use, but must leave a 6-foot pathway for pedestrians and sign a liability agreement with the City.
5. Any retail establishment, with a physical storefront, may use the immediately adjacent property/ies to increase the size of their retail operation, as delineated in C (1-4), above. Permission must be granted from the adjacent property owner.

168-49

Projection into streets.

A.

~~No person may operate a sidewalk cafe without obtaining a license from the Zoning Officer of the City of Hoboken pursuant to the procedures set forth in § 168-52.~~

A.

Sidewalk cafes are permitted only in association with a qualifying establishment.

C.

~~The allowed projection of a sidewalk cafe shall be governed by the following:~~

~~(1)~~

~~Where the sidewalk is more than 20 feet in width, the maximum projection of any sidewalk cafe shall be 10 feet, including but not limited to all partitions, plants, flower boxes, signs, and/or other permitted decorative elements or parts thereof. Where there are existing fixed obstructions on the right of way, such as but not limited to bus shelters, informational kiosks, trees, utility poles, streetlights or traffic lights, and/or directional or City signs, the City may place further limitations on the projection of a cafe to assure a minimum of eight feet of safe, unobstructed pedestrian egress.~~

~~(2)~~

~~Where the sidewalk is less than 20 feet but more than 17 feet in width, the maximum projection of any sidewalk cafe shall be eight feet, including but not limited to all partitions, plants, flower boxes, signs, and/or other permitted decorative elements or parts thereof. Where there are existing fixed obstructions on the right of way, such as but not limited to bus shelters, informational kiosks, trees, utility poles, streetlights or traffic lights, and/or directional or City signs, the City may place further limitations on the projection of a cafe to assure a minimum of six feet of safe, unobstructed pedestrian egress.~~

~~(3)~~

~~Where the sidewalk is less than 17 feet in width, the maximum projection of any sidewalk cafe shall be six feet or 1/2 of the sidewalk width, whichever is less, provided there is a minimum of six feet of safe, unobstructed pedestrian egress.~~

(4) —

~~Where none of the above conditions can be met, a determination will be made on a case-by-case basis by the administrative officer to assure that safe, unobstructed pedestrian egress is maintained.~~

B.

Where the qualifying establishment is located on a corner, both the front and side sidewalk areas fronting the qualifying establishment may be used for the sidewalk cafe.

C. For the 2020 calendar year:

- a. Any qualifying establishment, with a physical storefront, along Washington Street may fully utilize the street-facing portion of the sidewalk in front of their property for cafe use. A 6' pathway for pedestrians passing between the building and the outdoor cafe space must be maintained. When located at a corner, the establishment may use both front and side sidewalks for cafe use, but must provide a 6' pathway for pedestrians at crosswalks. Tables and chairs, where applicable, must be spaced at least 6 feet from street lamps and other fixed obstacles and may not come within 15-feet of a fire hydrant. In the event that the above configuration results in less cafe square footage than was had in 2019, a retail establishment may appeal the City Council who, by resolution, may authorize a parklette.
- b. Any qualifying establishment, with a physical storefront, along any City-managed street, except Washington Street, may utilize the parking lane immediately in front of their business to install a parklette.
- c. Any qualifying establishment, with a physical storefront, directly across the street from a municipal park may utilize the street-facing portion of the park sidewalk for cafe use, but must leave a 6-foot pathway for pedestrians and sign a liability agreement with the City.
- d. Any qualifying establishment, with a physical storefront, directly across the street from a municipal property may utilize the street-facing sidewalk of the City's property for cafe use, but must leave a 6-foot pathway for pedestrians and sign a liability agreement with the City.
- e. Any qualifying establishment, with a physical storefront, may use the immediately adjacent property/ies to increase the size of their cafe operation, as delineated in C (1-4), above. Permission must be granted from the adjacent property owner.

§ 168-50

General requirements.

A.

All establishments licensed to operate a sidewalk cafe shall display the license in an unobstructed location.

B.

The sidewalk cafe area shall be separated from the public portion of the sidewalk by a partition that is not less than 30 inches in height or more than 42 inches in height. The partition shall not obstruct, in any way, patrons, pedestrians, or public safety personnel from entering or exiting the restaurant.

C.

Partitions for seasonal installation shall be constructed of metal, wood, or other substantial material that is not easily moved or disturbed by patrons or pedestrians, and may be easily maintained in good condition throughout the season.

D.

Sidewalk cafes shall be exempt from the partition requirements, provided the projection into the sidewalk is less than three feet and the setup has been expressly approved by the administrative officer.

E.

At no time shall the sidewalk cafe partition, tables, chairs, and any other cafe furniture or accessory block any residential entrance. A clear, straight path from door to curb shall be provided and maintained for public safety reasons.

F.

~~For the 2020 calendar year, string lights, rope lights, bistro lights, and similar temporary lights are not permitted as part of a seasonal sidewalk cafe setup. Only those cafes with year round setups approved prior to the adoption of this amendment, and so recorded with the Zoning Office, may keep or maintain their existing lighting.~~

G.

~~The sidewalk cafe partition and any overhead covering shall be appropriate in style to the facade of the building, shall be approved by the Historic Preservation Commission when in an historic district, and shall not contain advertising.~~

H.

The sidewalk cafe shall be at the same elevation as the sidewalk, Paint, carpet, platforms, or any other surface cover or treatment of any kind shall not be permitted in the area of the sidewalk cafe, unless expressly permitted by the governing body.

I.

Outside speakers or other sound reproduction devices shall not be operated or used within a sidewalk cafe for any reason.

J.

Smoking shall not be permitted within a sidewalk cafe.

K.

~~For the 2020 calendar year, all tables, chairs, and other cafe furniture and partitions shall be removed from may remain on the sidewalk at the close of business each day and but must shall be secured. Cafe partitions may remain on the right of way overnight, from March 15 through November 15, provided they meet all other conditions and specifications included in this article. During the rest of the year, partitions must be removed from the right of way during nonoperating hours.~~

L.

The entire sidewalk area in front of the premises, including 18 inches into the street, must be maintained by sweeping or washing daily or more frequently, as needed, by the licensee.

M.

No preparation of food or beverages shall take place outdoors, but shall be restricted to the inside of the qualifying establishment.

N.

(Reserved)[2]

O.

Qualifying establishments that hold a liquor license and wish to extend alcoholic beverage service to the sidewalk cafe shall have completed a "Place to Place/Expansion of Premises" application with the Alcoholic Beverage Control Board. Licensees not covered for the sidewalk area shall not be permitted to serve alcoholic beverages in the sidewalk cafe.

P.

Sidewalk cafes that permit patrons to bring their own beer or wine shall adhere to all laws governing B.Y.O.B. as set forth in N.J.S.A. Title 33, N.J.A.C. 13:2 and City of Hoboken Municipal Code, Chapter 68.

Q.

Alcoholic beverages, when permitted under this article, shall not be served or consumed on any sidewalk or any other public area which is outside the partitioned area of the sidewalk cafe.

R.

No persons, other than those being served and qualifying establishment personnel, shall be within the sidewalk cafe area except for those persons passing through the sidewalk cafe to enter or exit the premises. Patrons shall not be served outside of the partition.

S.



Holes drilled into the sidewalk for the support of partitions shall be capped when not in use.

T.

Restaurants and bars that do not have table service shall provide waste receptacles for all used containers, wrappers, bottles, cans and other waste materials. The waste receptacles shall be located within the sidewalk cafe partitioned area, and shall be removed from the sidewalk and secured along with other cafe equipment each day.

U.

Cafes may be permitted to expand in front of an immediately adjacent property to either side of the licensed restaurant by one property width to either side of the property line of the qualifying establishment, but said expansion shall not exceed 25 feet in length on either side.

(1)

Where a qualifying establishment seeks to expand the cafe area to the front of an adjacent property as permitted herein and the licensee has or has previously received a license, the licensee shall submit a new application for a license, which shall include revised scale drawings as required by § 168-52A(6) (below) depicting the proposed expanded area, and the documents required for a license renewal as delineated in § 168-52 (below) for the current cafe.

(2)

An initial applicant seeking to have the cafe area expand to the front of an adjacent building as permitted herein shall submit the documentation and follow the procedure delineated in § 168-52 but shall clearly set forth in the application and drawings the expanded area being requested.

(3)

The owner of the property where the qualifying establishment is located and the owner of the adjacent property shall submit a duly executed consent, in a form acceptable to the City, which has been executed between the parties confirming the adjacent property owner's

consent to the extension of the sidewalk cafe, prior to the issuance of a new or amended license.

(4)

Where a cafe is extended to the front of an adjacent property as permitted herein, the licensee is required to continue to abide by all other regulations delineated herein, including the regulation prohibiting the cafe area from blocking a residential entrance.

**SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS** All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION THREE: SEVERABILITY** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION FOUR: EFFECTIVE DATE** This Ordinance shall take effect immediately upon passage and publication as provided by law.

**SECTION FIVE: CODIFICATION** This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Meeting Date: May 6, 2020**

Approved as to Legal Form:

Vetoed by the Mayor for the following reasons:

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Brian Aloia, Esq. Corporation Counsel

Adopted by the Hoboken City Council  
By a Vote of        Yeas to        Nays  
On the \_\_\_ day of \_\_\_\_\_, 2020

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James Farina, City Clerk

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-or-  
 Approved by the Mayor  
On the \_\_\_ day of \_\_\_\_\_, 2020

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Ravinder S. Bhalla, Mayor

✓ Vote Record - CC - Ordinance						
			Yes/Aye	No/Nay	Abstain/Alternate	Absent
<input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading <input type="checkbox"/> Tabled <input type="checkbox"/> Adopted <input type="checkbox"/> Failed		Phil Cohen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Mike DeFusco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		James Doyle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Vanessa Falco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Tiffanie Fisher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Emily Jabbour	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Ruben Ramos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Michael Russo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Jennifer Giattino	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>