

BOROUGH OF NEWPORT  
231 Market Street  
Newport, PA 17074

**ORDINANCE # 385**

**AN ORDINANCE AMENDING ORDINANCE #348, CHAPTER 215, STREETS AND SIDEWALKS OF THE BOROUGH OF NEWPORT CODE OF ORDINANCES (adopted January 8, 2013) WITH THE ADDITION OF ARTICLE IV. SIDEWALK CAFES AND STREET EVENTS; AND CONTAINING A SEVERABILITY CLAUSE AND EFFECTIVE DATE.**

**WHEREAS**, the Borough of Newport is a body corporate and political, duly organized and existing in accordance with the laws of the Commonwealth of Pennsylvania and the Borough Code, Title 8, PA C.S. §101 et seq. (the Borough Code); and

**WHEREAS**, the Borough of Newport adopted Ordinance No. 348, relating to Chapter 215, Streets and Sidewalks that provides regulations for the streets within the Borough; and

**WHEREAS**, the Borough Council of the Borough of Newport voted to adopt this ordinance; and

**WHEREAS**, the Borough Council of the Borough of Newport has determined that it is in the best interest of the Borough to amend Ordinance No. 348, Chapter 215, Streets and Sidewalks

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Borough Council of the Borough of Newport as follows:

**SECTION I.**

Chapter 215, Streets and Sidewalks of the Code of the Borough of Newport is amended to add a new Article IV as follows:

**ARTICLE IV. Sidewalk Cafes and Street Events**

**§ 215-19. Definitions.**

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

**BUILDING LINE**-The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

**CONSUME**-To drink from the container, possession with movement of the container to the mouth, possession with alcohol on the breath of the possessor, any circumstances evident an intent to ultimately consume on any public lands without permission.

**FRONTING**-In front of the established public eating or drinking place on that sidewalk.

**NONPERMANENT PARTITION**-Removable barrier to separate the sidewalk into two distinct areas of dining seating and the other for public use.

PENNSYLVANIA LIQUOR CONTROL BOARD (PLCB)-Regulates the manufacture, importation, sale, distribution and disposition of liquor, alcohol, and malt or brewed beverages in the Commonwealth of Pennsylvania. The agency is responsible for wholesale distribution of wine and spirits.

PERMIT APPLICATION-Required application by the Borough of Newport to obtain a permit to establish a sidewalk café.

PERMIT HOLDER-Person(s), firm or corporation who own or rent the building, possessing the sidewalk café permit obtained through the Borough of Newport.

PUBLIC EATING OR DRINKING PLACE-A place within the Commonwealth of Pennsylvania where food or drink is served to or provided to the public, with or without charge. The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead of inn.

SIDEWALK CAFÉ-The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of an operating public eating or drinking place fronting on the space, which space does not have permanent walls.

STREET EVENTS-A special event in the Borough of Newport that has been approved by the Borough Council with the issuance of any street event permits required.

## **§ 215-20. Sidewalk Cafes**

### **A. Sidewalk Cafes**

1. Permit required. Open sidewalk cafes shall be permitted when a permit is obtained from the Newport Borough. A request for a permit must be made by the owner or tenant of a building which is occupied and used as a public eating or drinking place. The building fronting is the area sought to be used as a sidewalk café. Sidewalk cafes will only be permitted in the Newport Borough's Commercial Downtown District. The permit will include obtaining signed statements, giving written permission from the owner(s) of the property(s) immediately adjoining either or both sides of the building used as a public eating or drinking place, for the use of the sidewalk café. Such a permit shall be valid for one year and be issued on a calendar-year basis, beginning in January.
2. Conditions for issuance of permit. A permit for a sidewalk café may be issued only when the following conditions are met:
  - a. No food preparation shall take place within the sidewalk café, (with the exception of street events.)
  - b. Projection onto the sidewalk. No more than half the sidewalk shall be utilized for sidewalk café. In no case shall less than five (5) feet of sidewalk be available for pedestrian traffic.
  - c. Partition standards. Partitions are mandatory for alcohol permits only. Non-alcohol permit holders may use partitions if desired, but are not required. All permit holders using partitions must use the following standards.

- i. The partition separating the sidewalk cafe from the public portion of the sidewalk shall not be permanent.
    - ii. The partition shall be no more than thirty-six (36) inches in height and appropriate to the façade of the building.
    - iii. The partition shall be commercial grade and must be described in detail in the permit application.
    - iv. No advertisements shall be placed upon the partition.
  - d. Insurance and Indemnification. Any person, firm or corporation requesting a permit shall, prior to issuance thereof, file with the Newport Borough a permit application verifying an active comprehensive general liability insurance policy. A certificate evidencing liability insurance in at least the amount of \$25,000/\$50,000, covering property damage and personal injury, shall be kept in full force during the operation of the sidewalk café. The applicant also agrees to indemnify and hold harmless the Borough of Newport, its officers and employees, from all claims, actions, loss resulting from injuries to or death to persons, or damages of every kind to property or any other claims arising out of, resulting from or in any manner caused by the presence, location, use, description which may accrue to or be suffered by any person by reason of or related to the operation, installation, maintenance, replacement or removal of such sidewalk café or by the acts or omissions of the employees or agent of the licensee in connection with such café.
  - e. The permit holder shall also release the Borough of Newport from any and all claims relating to its sidewalk café, including, but not limited to, loss of business and /or value of the sidewalk café when it is ordered removed or when street sidewalk or utility construction occurs.
  - f. All other applicable ordinances, including but not limited to zoning ordinances, shall be complied with. It is not the intent of this section that a use not authorized by the ordinances of the Borough would become permissible hereby.
  - g. All applicable federal, state and local statutes, rules and regulations shall be complied with. The sidewalk café must comply with the licensing authority of the Commonwealth of Pennsylvania for serving food or alcohol.
3. Compliance with each of the conditions of issuance shall be a continuing obligation of the permit holder.
  4. A permit holder shall maintain the good order and proper conduct of patrons of the sidewalk café.
  5. Litter. Litter emanating from the sidewalk café area and from whatever area to which it may flow shall be collected as often as is required to keep the sidewalk clear of litter as if the sidewalk café did not exist.

6. Revocation of permit.
  - a. Any permit issued shall be limited and can be revoked for the use of a sidewalk café area as specified herein. A permit is understood by any permit holder to exist merely at the pleasure of Borough Council and may be revoked by the:
    - 1) Code Enforcement Officer for a violation of any provisions of this section;  
or
    - 2) Borough Council at any time and with cause.
  - b. Revocation may be in addition to penalties imposed by this article in §215-23.
7. Alcoholic beverages permitted. The serving and consumption of alcoholic beverages shall be permitted within the confines of the sidewalk café, under proper licensure from the Pennsylvania Liquor Control board, subject to compliance with all the provisions of the PLCB and the following specific requirements:
  - a. Alcohol may be consumed only within the partitioned area of the open sidewalk cafe in the Commercial Downtown District only. No alcoholic beverages shall be served or consumed in the right-of-way of any street, avenue, alley, public way, or sidewalk, nor in any public parking lot, private parking lot held open to public use, schools, public park or other public area.
  - b. All alcoholic beverages shall be consumed from disposable or non-disposable glassware or other drinking utensil provided by the permit holder. No alcoholic beverage shall be consumed directly from the original bottle or can in which it was obtained from the brewer, distiller or other maker. No alcoholic beverage shall be transported by patrons from the open sidewalk café.

#### **§ 215-21 Street Events.**

Any organized street event wishing to allow consumption of any beer, wine, or alcoholic beverage in or upon the streets shall be required to obtain a temporary sidewalk café permit as described in § 215-20. Rules and regulations set forth by the Pennsylvania Liquor Control Board shall be always maintained.

#### **§ 215-22. Permits and Fees.**

No permit shall be issued under this chapter until a fee, in such amount as shall be set from time to time by resolution of the Borough Council, shall be paid with the permit application to the Borough of Newport. The permit application fee is non-refundable if the permit is denied.

#### **§ 215-23. Violations and penalties.**

Any person, firm or corporation who shall violate any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and/or to imprisonment for a term of not to exceed 30 days.

**SECTION II. SEVERABILITY.**

The terms, conditions and provisions of this ordinance are hereby declared to be severable, and should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this ordinance.

**SECTION III. EFFECTIVE DATE.**

This Ordinance shall take effect and be in force on the earliest date permitted by the Borough Code.

**DULY ADOPTED** by the Council of the Borough of Newport, Perry County, Pennsylvania, this 7<sup>th</sup> day of August, 2024.

ATTEST:

BOROUGH OF NEWPORT,  
Perry County, Pennsylvania

Shelly A. Jaraman  
Secretary, Borough of Newport

By: [Signature]  
Mayor, Borough of Newport

(Seal)

By: Sheldon M. Drape  
President, Borough of Newport