

# Outdoor Café Application

Date of Application	
Trade Name	
Site Address	
Day Telephone	
Emergency Telephone	
Building Owner	
Supply the following below	
212-5A	
212-5B	
212-5C	
212-5E, 1,2,3,4,5	
212-10, (letter) & 11(copy)	

Fee Paid: \$ 100.00	Check #
Signature	Title:
Reviewed & Complete	Date: _____
Code Official:	
Inspection & Approved	Date: _____
Code Inspector:	
<b>All Sections must be completed for the Permit to be issued</b>	

*Borough of Hillsdale, NJ  
Tuesday, April 2, 2013*

## Chapter 138. FEES

### § 138-14. Chapter 212, Outdoor Cafes. [Amended 6-4-2010 by Ord. No. 12-11]

<b>Type of Use</b>	<b>Fee</b>
Application fee	\$100

*Borough of Hillsdale, NJ  
Tuesday, April 2, 2013*

## Chapter 212. OUTDOOR CAFES

**[HISTORY: Adopted by the Borough Council of the Borough of Hillsdale 9-13-1994 by Ord. No. 94-12. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Alcoholic beverages — See Ch. 88.  
Fees — See Ch. 138.  
Licenses and permits — See Ch. 188.  
Noise — See Ch. 208.  
Penalties — See Ch. 226.  
Land use — See Ch. 310.  
Food establishments — See Ch. 339.

### **§ 212-1. Purpose.**

The purpose of this chapter is to establish a procedure and authorize rules and regulations thereunder for the licensing of outdoor cafes in the Commercial Zone of the Borough of Hillsdale.

### **§ 212-2. Definitions.**

For the purpose of this chapter, the following words shall have the meanings respectively ascribed in this section.

#### **OUTDOOR CAFE**

Any eating establishment where food and other refreshments are served upon the public right-of-way, namely the sidewalks immediately in front of any restaurant, cafe, cafeteria or place of business where food and/or other refreshments are served which has received approval for on-site consumption of food and complies with all applicable codes.

#### **SIDEWALK**

That area of the public right-of-way reserved for pedestrian traffic from the curb to the front line of the building housing an eating establishment.

### **§ 212-3. License required.**

**[Amended 6-4-2012 by Ord. No. 12-11]** It shall be unlawful for any person, firm, partnership, corporation, association or organization of any kind (hereinafter collectively referred to as "person") to create, establish, operate, maintain or otherwise be engaged in the

business of conducting an outdoor cafe upon the sidewalks of the Borough of Hillsdale without a Hillsdale Borough license.

#### § 212-4. License requirements.

No license shall be issued hereunder unless the licensee shall demonstrate that a minimum of five feet of contiguous unobstructed paved surface will be available for pedestrian traffic around or through such outdoor cafe and that such outdoor cafe will be directly in front of or contiguous to an eating establishment as hereinabove defined. The front unobstructed paved surface shall be established between the table and the curb. No food or drinks served at such outdoor cafe shall be prepared or stored other than in the interior of the eating establishment. The term "directly in front of" shall confine the cafe to the area represented by an extension of each side of the store occupied by the eating establishment projected directly to the curbline immediately in front thereof. Any table used for sidewalk dining may not result in an increase in the total number of tables allowed in a restaurant cafe, cafeteria or place of business approved for on-site consumption of food.

#### § 212-5. License application.

Application for the license required hereunder shall be made to the Construction Code Official 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, partner or, if a domestic corporation, the names, residence addresses and telephone numbers of the directors and officers owning a 10% or greater interest in the corporation and 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 chapter.
- C. The address and description of each place where the occupant intends to establish or operate an outdoor cafe.
- 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, umbrellas or other furnishings or fixtures intended to be located in the outdoor cafe, and where the corresponding indoor tables will be removed. Umbrellas extending over the dining area are permitted. The scaled drawings shall also illustrate the following:
  - (1) The location of any doors leading from the eating establishment to the outdoor cafe.  
No such doors may be obstructed in any manner.

- (2) All trees and the location of unobstructed space permitting free passage of pedestrian traffic around or through each outdoor cafe.
- (3) The location where any food or drink is intended to be prepared.
- (4) The location of all fire hydrants, parking meters, utility poles, benches, handicap ramps, street furniture, trees, cellar doors 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.
- (5) The type and location of any proposed outdoor lighting fixtures,
- (6) An application fee as provided in Chapter 138, Fees. **[Amended 5-13-1997 by Ord. No. 97-8]**

### **§ 212-6. Review of application.**

The Construction Code Official will review the application for completeness and compliance with the terms of this chapter. If the application is complete, the Construction Code Official 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 Construction Code Official will so notify the applicant within the 10 business days of the submissions and specifically detail the areas in which the application lacks compliance with the requirements of this chapter.

### **§ 212-7. License issuance.**

If the application complies with this chapter, the Construction Code Official shall issue a license strictly subject to the terms and conditions of this chapter.

### **§ 212-8. License nontransferable.**

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

### **§ 212-9. Consent to inspections.**

Acceptance to the license by the applicant shall operate as a consent to the health, fire, police and building officials of the Borough to inspect the outdoor cafe for continued compliance with the terms and conditions of this chapter and any federal, state, county or local law, ordinance or regulation affecting the same.

### **§ 212-10. Indemnification of Borough.**

No license required by this chapter shall be granted to any person to operate an outdoor cafe until such person shall have filed with the Construction Code Official a statement agreeing to indemnify and hold harmless the Borough of Hillsdale, its agents servants, representatives or employees from any or all claims, damages, judgment costs or expenses, including attorney's 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 or or related in any way to the operation and maintenance of the outdoor cafe for which the license is issued.

**§ 212-11. Insurance requirements.**

A. No license required by this chapter shall be granted to any person to operate an outdoor cafe until such person shall have first filed with the Construction Code Official 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 Hillsdale, 380 Hillsdale Avenue, Hillsdale, New Jersey 07642, its agents, officers, servants, representatives and employees as additional insured with respect to the operation and maintenance of the outdoor cafe in the following amounts:

Bodily injury

Each person \$300,000.

Each accident \$1,000,000.

Property damage

Each person \$300,000.

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 Construction Code Official shall contain a clause obligating the company issuing the same to give not less than thirty (30) days' written notice to the Borough Clerk before cancellation for amendments of any of the terms thereof. Notice of cancellation shall not relieve the company issuing such policy of liability 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 outdoor cafe covered thereby until a new policy complying with the provisions of this section is filed with the Construction Code Official and a letter, in writing, confirming the new effective date of the license is issued by the Construction Code Official.

C. Every insurance policy required hereunder shall contain a provision for continuing liability thereunder to the full amount thereof, notwithstanding any recovery therein, 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 such premium or of any act of 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.

## § 212-12. 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 for failure of any licensees to comply with this chapter or for violation of any other applicable federal, state, county or municipal law, regulation or ordinance. Any license issued hereunder is issued upon the express understanding that the licensees obtains no property right thereunder, nor any interest in the continuation of said license. Upon the first violation, the eating establishment shall receive a written warning. Upon the second violation, the license shall be revoked for the remainder of the license year.

## § 212-13. Suspension or termination of license.

It shall be unlawful for any person to operate an outdoor cafe after the suspension or termination of the applicable license.

## § 212-14. Cleaning of areas.

**[Amended 6-4-2012 by Ord. No. 12-11]**

- A. Each licensee is responsible for keeping the area of the outdoor cafe and the adjacent walks and streets free and clear of any debris or litter occasioned by the cafe. Tables must be bussed and reset immediately upon departure of the patron. 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.
- B. All garbage generated and left within 20 feet of an outdoor cafe or mobile retail establishment must be removed from the sidewalk and adjoining gutter daily.
- C. Sidewalks shall be steam cleaned whenever necessary, and at a minimum frequency of once every three months, with a cleaning agent and disinfectant.
- D. Garbage and recycling must be removed from the sidewalk prior to opening the outdoor cafe or mobile retail establishment daily and must be kept clear from the sidewalk while food is present outside the establishment. Borough garbage cans must be emptied by the licensee on days that the Borough garbage cans are not picked up or at any time conditions require them to be emptied.
- E. Violation of any of the above cleaning requirements constitutes grounds for revocation or suspension of a license to operate within the Borough of Hillsdale, with the penalty pursuant to § 212-12 of this chapter.
- F. The cleaning requirements and penalties in this Code section are also specifically applicable and enforceable within the Borough of Hillsdale as to any mobile retail establishments, as defined in § 339-1, Definitions, of the Hillsdale Borough Code.

## § 212-15. Exterior vending machines prohibited.

No vending machines of any kind are permitted on the exterior of any building operating an outdoor cafe.

### **§ 212-16. Signs.**

No additional signs shall be permitted in the area of the outdoor cafe other than those permitted by ordinance.

### **§ 212-17. Impeding pedestrian traffic; emergencies.**

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 ten (10) days' written notice if the Borough determines that pedestrian traffic is, in fact, impeded or made unsafe because of the operation of the outdoor 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 ten (10) days' written notice, in the event the Borough determines that it is necessary to utilize the area or any part hereof for the maintenance or installation of underground utilities. In the event of an emergency, which emergency is certified by the Borough Administrator, the license may be suspended or revoked without notice.

### **§ 212-18. Serving alcoholic beverages.**

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 cafe purposes in order to serve alcoholic beverages therein. Alcohol is only to be served in conjunction with food service.

### **§ 212-19. Days of operation.**

Outdoor cafes shall be permitted to operate from April 1 or October 31 in any calendar year. The license, when issued, shall be valid for one (1) season.

### **§ 212-20. Attachment of equipment unlawful.**

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

### **§ 212-21. Vacation of sidewalk ; removal of property.**

The licensee agrees at the end of the license period, or in the event that the license is temporarily or permanently suspended or revoked, that the licensee will at his or her own cost and expense vacate the sidewalk space and promptly remove any property placed thereon. Failure to do so on five (5) days' written notice shall grant to the Borough the right to remove any property on the sidewalk and the licensees agree to reimburse the Borough for the cost of removing and storing the same.

### **§ 212-22. Noise-making devices.**

The licensees shall not direct or permit to be directed to or from the area occupied by the outdoor cafe any bell, chime, siren, whistle, loudspeaker, public address system, radio, sound amplifier or similar device.

### § 212-23. Hours of operation.

No outdoor cafe shall remain open for business prior to 7:00 a.m. nor serve customers after 10:00 p.m. All persons occupying the outdoor cafe shall vacate the same no later than 10:30 p.m.

### § 212-24. Violations and penalties.

**[Added 5-13-1997 by Ord. No. 97-8]** Any person, firm or corporation who shall violate any of the provisions of this chapter shall be punishable as provided in Chapter 226, Penalties.