



## **VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES AGENDA**

<b>MEETING DATE:</b> MAY 12, 2020
<b>AGENDA ITEM SECTION:</b> PUBLIC HEARING
<b>AGENDA ITEM NO. :</b> 3
<b>AGENDA ITEM:</b> CONTINUATION OF PUBLIC HEARING TO CONSIDER AN INTRODUCTORY LOCAL LAW WHICH PROPOSED TO AMEND THE CRITERIA, CONDITIONS AND PROCESS FOR SIDEWALK CAFÉ PERMITS
<b>ITEM BACKUP DOCUMENTATION:</b> <ul style="list-style-type: none"><li>1. RESOLUTION OF ADOPTION OF LOCAL LAW 3-2020 – SIDEWALK CAFÉ PERMITS</li><li>2. LOCAL LAW 3-2020</li></ul>

**RESOLUTION OF ADOPTION OF LOCAL LAW 3-2020 - SIDEWALK CAFÉ PERMITS**

**WHEREAS**, the Board of Trustees of the Village of Dobbs Ferry has been considering adoption of an Introductory Local Law which proposes to amend the criteria, conditions and process for sidewalk café permits by repealing and replacing Article II “Sidewalk Cafes” in Chapter 264 of the Code of the Village of Dobbs Ferry; and

**WHEREAS**, for the purpose of receiving comment on said proposed local law the Board of Trustees opened a duly noticed public hearing on March 24, 2020 which was adjourned to and conducted on May 12, 2020, during which the public had the opportunity to be heard using methods alternative to in-person attendance in compliance with NYS Executive Order 202 issued in connection with the COVID-19 pandemic; and

**WHEREAS**, the matter was the topic of further discussion and deliberation by the Board at the public meeting on the same evening after the close of the hearing, following which the Board determined there were no impediments to proceeding with adoption of the local law.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Trustees of the Village of Dobbs Ferry hereby adopts Local Law 3-2020 repealing and replacing Article II “Sidewalk Cafes” in Chapter 264 of the Code of the Village of Dobbs Ferry, with such adoption to take effect as required by law; and

**BE IT FURTHER RESOLVED**, that the Village Board directs the Village Clerk to file and distribute said Local Law No. 3-2020 in accordance with applicable law.

## LOCAL LAW NO. 3-2020

“Amendment to the Village of Dobbs Ferry Code updating Sidewalk Café regulations”

A LOCAL LAW repealing and replacing Article II “Sidewalk Cafes” in Chapter 264 of the Code of the Village of Dobbs Ferry.

BE IT ENACTED by the Board of Trustees of the Village of Dobbs Ferry, as follows:

Section 1. The Code of the Village of Dobbs Ferry is hereby amended with the deletion of the provisions of Article II of Chapter 264 and the addition of the following replacement provisions:

### **§ 264-7 Purpose.**

The sidewalk cafe regulations as established in this article are designed to allow sidewalk cafes on public property within the Downtown Business District or the Downtown Transition District at locations where they are determined to be appropriate by the Village Administrator and to promote and protect the public health, safety and general welfare. The general goals are to:

- A. Promote sidewalk cafes as useful and properly planned visual amenities that relate harmoniously to the streetscape.
- B. Provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes and to ensure access to adjacent commercial and retail uses.
- C. Promote the most desirable use of property in the Village.

### **§ 264-8 Permit required.**

A permit issued pursuant to this article shall be required for operation of any sidewalk café. The Building Inspector, or his/her designee, is authorized to issue such permit provided that all the requirements and conditions of this article are met, including the payment of the requisite fee. The permit to operate a sidewalk café shall be valid for one calendar year and effective for the seasonal period inclusive of April 1<sup>st</sup> through December 31<sup>st</sup>. Subject to the conditions in this article, sidewalk café permits are renewable annually.

- A. Application for a sidewalk cafe permit shall be made in form and substance as may be required by the Village and at a minimum shall include the name and address of the establishment where the sidewalk cafe is proposed; the name and address of the applicant with phone number and e-mail address; proposed hours of operation of the sidewalk cafe; and a complete list of equipment proposed to be placed on the sidewalk.
- B. The application shall be accompanied by a sketch, at a scale of at least 1/4 inch equals one foot, showing the area of the sidewalk adjoining the establishment where the sidewalk cafe is proposed and including dimensions and details such as the location of the curb, any trees and tree wells, mailboxes, streetlights, parking meters, utility poles or other obstructions with the proposed location of all tables, chairs, benches and other equipment proposed to be located on the sidewalk.
- C. If the applicant is not the owner of the premises in front of which the sidewalk cafe is proposed, (s)he must provide proof of the property owner's consent to the sidewalk cafe.
- D. The applicant must submit, prior to the issuance of the permit, in a form acceptable to the Building Inspector, evidence of an agreement to indemnify and save harmless the Village of Dobbs Ferry, its officers and employees against any loss or liability or damage, including expenses and costs for bodily injury and for property damage sustained by any person as a result of the applicant's operation of a sidewalk cafe on public property.
- E. The applicant must submit, prior to the issuance of the permit, a certificate of general liability insurance naming the Village of Dobbs Ferry, its officers, agents and employees as additional insureds, with the following limits: for personal injury, \$1,000,000 per individual and occurrence; and for property damage, \$1,000,000 per individual and occurrence, effective for the duration of the permit, and containing a provision prohibiting its cancellation except upon 30 days' notice to the Village of Dobbs Ferry.
- F. The applicant must submit a fee with any application for a permit or renewal in an amount fixed by resolution of the Board of Trustees pursuant to Chapter 175 and set forth in the Fee Schedule.
- G. The Village Administrator shall grant or deny an application for a permit under this article within 30 days after submission of all the required information and documents, including payment of the fee. The permit may include any conditions that the Village Administrator, in consultation with the Building Inspector, deems to be reasonable and necessary to protect the health, safety and welfare of the public.

#### **264-9. Conditions for issuance of permit.**

- A. The sidewalk cafe shall be permitted only as accessory to a lawfully operating food establishment and must be operated by the same entity on the portion of the sidewalk immediately abutting such establishment.
- B. The sidewalk area in front of the sidewalk café shall remain free of impediments to access, traversing and other routine usage by the public. Such unencumbered area must

extend a minimum distance of three and a half feet (3.5') as measured from the portion of the sidewalk cafe that is nearest either the curb line or the nearest obstruction (such as tree wells, parking meters, utility poles, streetlights, etc.). If a moveable chair is within such unencumbered area, it shall be measured at a minimum two feet (2') from the edge of the table to which it is adjacent.

- C. A clear, unoccupied aisle space must be provided, not less than four feet (4') in width, from all entrances of the building abutting the sidewalk to the unencumbered area of the public sidewalk.
- D. No permanent structures may be affixed to the sidewalk space occupied by the cafe or affixed to any tree, sign, light pole or the building abutting such space for purposes of the cafe, and the space may be occupied only by readily removable chairs, tables, benches, railings, stanchions for rope or retractable belts and/or planters.

#### **264-10. Operating restrictions.**

- A. A sidewalk cafe may operate only between the hours of 8:00 a.m. and 10:00 p.m. on Sunday through Thursday, and between 8:00 a.m. and 11:00 p.m. on Friday, Saturday and the night before a federal holiday, and may not operate when the establishment to which it is accessory is not open to the public.
- B. No later than the closing time required by §264-10(A), all tables, chairs and other equipment used for the sidewalk cafe shall be safeguarded or stowed appropriately to ensure safety of the public and property from any hazard, including a weather event or other outside force, and items such as umbrellas, awnings and portable heating or fan units that may topple or become airborne must be completely removed from the sidewalk at the closing time required by §264-10(A).
- C. The restaurant or food establishment shall not serve food or beverages to a patron at a sidewalk cafe unless that patron is seated at a chair, bench or table within the sidewalk cafe.
- D. All food and beverages served at a sidewalk cafe shall be prepared or sold within the existing restaurant or food establishment not which the café is accessory.
- E. All alcoholic beverages to be served at a sidewalk cafe shall be prepared within the existing restaurant, and alcoholic drinks shall be served only to patrons seated at chairs, benches and/or tables within the sidewalk cafe. All alcoholic beverages must be served by a waiter, who delivers the beverage to the outdoor cafe. The consumption of alcoholic beverages by a member of the public while a patron at a sidewalk cafe, within the confines of the sidewalk cafe area, shall not be construed as a violation of any local law controlling consumption of alcoholic beverages in a public area. The operator of a sidewalk cafe shall be in full compliance with the licensing requirements of the State Liquor Authority, as may exist, and shall comply with all other laws and regulations concerning the sale of alcoholic beverages in the state. In the event that said sidewalk

cafe is not in full compliance with the State Liquor Authority's laws, rules and regulations, then the serving and consumption of alcoholic beverages in the sidewalk cafe shall be prohibited.

- F.** Patrons at the sidewalk café are subject to all applicable laws and regulations concerning smoking, including Article XX of the Westchester County Sanitary code, which prohibits smoking in all dining areas of restaurants, including outdoor service areas of a restaurant, including patios, decks and sidewalks.
- G.** Sidewalk cafes and the public property on which they are located, and the surrounding area, shall be kept neat and clean at all times and free from debris and any substance that may damage the sidewalk or cause injury to pedestrians or property.
- H.** No waste receptacles for the sidewalk cafe are permitted outdoors.
- I.** No table surface in a sidewalk cafe shall have any dimension greater than 30 inches. All tables and chairs shall be uniform in color, material and size. All umbrellas or other shade structures shall be uniform in size and color and shall have a clear height six feet (6') to the sidewalk.
- J.** No outdoor lighting may be used on or for the sidewalk cafe except for low-level tabletop lighting designed to illuminate the immediate eating area.
- K.** No live or mechanical music may be operated or used within or for the sidewalk cafe.
- L.** No sidewalk cafe may be operated when there is snow or ice on any area of the sidewalk in front of the food establishment.
- M.** No additional parking which might otherwise be required by the zoning code is required for a sidewalk café.

#### **246.11. Reservation of rights.**

Neither the adoption of this article nor the granting of any permit pursuant to this article shall be construed as a waiver of any right, privilege or immunity that the Village of Dobbs Ferry may have with respect to streets and sidewalks whether express or implied.

#### **246.12. Violations; Penalties for offenses.**

- A.** Any person who violates any provision of this article shall be subject to a penalty of not less than \$150 and not more than \$500 per offence.
- B.** In addition, upon evidence that any sidewalk café permittee has violated any provision of this article or the terms and conditions of a sidewalk café permit or has engaged in any practice in connection with the operation of a sidewalk café that constitutes a danger to the health or safety of any patron or pedestrian, the Village Code Official shall have the right to give notice to the permittee to correct such violation or cease such practice within 24 hours. If the sidewalk café permittee fails to comply with such notice, the Village Code Official may suspend the permit for a period not in excess of 30 days, during which

time the permittee shall be entitled to appeal such suspension to the Village Administrator. The appeal may be made on written submission alone, or the permittee may request a hearing. Upon request for a hearing, the Village Administrator shall schedule a time for such hearing, at which the permittee may be represented by counsel, to present defense in person and confront the evidence against the permittee. Within 48 hours after the hearing is closed or receipt of a written appeal submission, the Village Administrator shall either revoke the permit or reinstate the permit. In reinstating the permit, additional conditions may be imposed relating to any violation or improper practice that has been found. If the permittee does not appeal the suspension of the permit, the sidewalk café permit shall be considered revoked in full.