

**ORDINANCE #2006-06
AN ORDINANCE CREATING
CHAPTER 29 OF THE “CODE OF
THE BOROUGH OF PRINCETON,
NEW JERSEY 1974” REGARDING
SIDEWALK CAFES.**

BE IT ORDAINED by the Mayor and Council of the Borough of Princeton that a new chapter of the Code of the Borough of Princeton is hereby enacted as Chapter 29, authorizing and regulating sidewalk cafes:

Section I – Sidewalk Cafes

Sec. 29-1 Definitions

For the purposes of this chapter, the following words or phrases shall have the meanings respectively ascribed to them by this section:

Adjacent building shall mean the building whose principal façade fronts on the sidewalk where the Sidewalk Café is or is proposed to be located.

Permitted district shall mean the CBD (Central Business District), as defined in Development Regulations Ordinance of the Borough of Princeton, as amended, and as shown on the Zoning Map of the Borough of Princeton.

Person shall mean any individual, partnership, corporation, association or other entity.

Principal facade shall mean the portion of the façade of a building, which fronts on a public street.

Retail food establishment shall mean an establishment actually located within the adjacent building for which a current retail establishment inspection certificate has been issued by the Board of Health and shall include, by way of example, a restaurant, hotel, coffee shop, tea room, dining room, cafeteria, luncheonette, soda fountain, sandwich shop, and delicatessen.

Required pedestrian passageway shall mean an area of sidewalk, parallel to the principal facade, at least six (6) feet wide between the Sidewalk Café and the adjacent curb, which area shall be unobstructed by trees, light poles, trash receptacles, parking meter posts, telephone booths and similar structures.

Sidewalk shall mean the paved surface provided for the exclusive use of pedestrians and situated between and extending from any building to the curb of any street (excluding any unpaved area).

Sidewalk Café or Café shall mean a retail food establishment (as defined herein):

- (a) Serving food that has been prepared on the premises to be consumed by the public at tables located within that more or less rectangular portion of the sidewalk which lies within the area bounded by the public street, the principal facade of the adjacent building, and the imaginary perpendicular lines running from the outer edge of such principal facade to the public street;
- (b) Containing one row of readily removable tables and chairs not exceeding six (6) feet in width with temporary railings and/or planters; and
- (c) Unenclosed by fixed walls or ceilings, except for retractable awnings, umbrellas or other non-permanent enclosures that in no way present a safety hazard to or impede pedestrian traffic.

Sec. 29-2 Annual License Required

No person, firm, or corporation shall pursue the business or occupation of selling food or drink in a public place as defined in subsection 29-1, to be consumed on the premises in the Borough of Princeton, until the owner, lessee, or proprietor shall have first obtained from the Borough Clerk a license to carry on or conduct the same and paid to the Borough Clerk an annual fee to be determined in the following manner:

Exterior Sidewalk Cafe Seating

One (1) to eight (8)	\$200.00
Nine (9) to twelve (12)	\$300.00
Over twelve (12) not to exceed twenty-four (24) seats	\$600.00

Sec. 29-3 Initial Application

- (a) Each applicant for a Sidewalk Café license shall submit and file an application with the Borough Clerk, together with four (4) copies of a Café Plan (as defined below), and the non-refundable \$250.00 application review fee. The application shall set forth:
 - 1. The name and address of the applicant;
 - 2. The name and address of the owner of the adjacent building (if other than the applicant); and

3. The name and address of the person who has prepared the Café Plan; and shall be accompanied by the written authorization and approval of the owner of the adjacent building (if other than the applicant).
- (b) The term Café Plan shall mean a plan setting forth the following information:
1. Identification of the adjacent building and all properties immediately adjacent to such building;
 2. A scaled drawing of the proposed design and location of the Sidewalk Café, all temporary structures, equipment and apparatus to be used in connection with its operation, including tables, chairs, planters, awnings, lighting and electrical outlets (if any), provisions for the storage of such structures, equipment and apparatus, proposed signage and the location of any fire hydrant, plug or standpipe, utility pole, parking meter stanchion, telephone booth, or other permanent fixture between the adjacent building and the curb, including a clear indication of the presence of the required pedestrian passageway. (The plan shall be drawn to scale, but need not be prepared professionally.) The plan shall demonstrate that pedestrian traffic along the sidewalk upon which the Sidewalk Café is proposed to be located will in no way be impeded, and that the provisions of subsection 29-8 of this section will be satisfied.
 3. A certificate of insurance as set forth in Section 29-4 of this Chapter.
 4. A statement of the seating capacity of the proposed Sidewalk Café and of the existing retail food establishment actually operated by the applicant in the adjacent building.

The Borough Clerk shall approve or disapprove the initial application or request for modification of the Café Plan within fifteen (15) days following its submission after referral of the Café Plan to the Chief of Police, the Fire Official, Health Officer and the Zoning Officer for inspection and written recommendation.

In the case of the Zoning Officer, such recommendation shall include an inspection of the condition of the sidewalk upon which the Sidewalk Café is proposed to be located and the adjacent curbing.

Sec. 29-4 Insurance Required

- (a) The following **wording must appear** on the Insurance Certificate:
“The certificate holder Princeton) is included as an additional insured with respect to losses arising solely from the operation of the Sidewalk Café.”
- (b) The following wording may appear on the Insurance Certificate or the applicant may provide this statement as a separate signed notarized Agreement:

“The licensee shall indemnify and hold harmless the Princeton and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the Sidewalk Café, providing that such claims, damages, losses or expenses (1) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and (2) are caused in full or in part by a party indemnified hereunder.”

(c) Ten (10) days’ written Notice of Cancellation must be provided to the Borough.

(d) Insurance in force must be written by a company licensed to do business in the State of New Jersey.

(e) Minimum coverage requirements are:

- (1) General Aggregate – one million (\$1,000,000.00) dollars;
- (2) Products and Completed Operation Aggregate – one million (\$1,000,000.00) dollars;
- (3) Personal and Advertising Injury – one million (\$1,000,000.00) dollars;
- (4) Each Occurrence – one million (\$1,000,000.00) dollars;
- (5) Fire Damage (any one fire) – fifty (\$50,000.00) dollars;
- (6) Medical Expense (any one person) – five thousand (\$5,000.00) dollars;
- (7) Workmen’s Compensation – Statutory requirements;
- (8) Employers Liability – one hundred thousand (\$100,000.00) dollars (each Accident) five hundred thousand (\$500,000.00) dollars (Disease – policy limit) one hundred thousand (\$100,000.00) dollars (Disease – each employee)

Sec. 29-5 Terms of License; Renewals

All Sidewalk Café licenses shall be issued for the seven (7) month period commencing April 1 and ending October 31 of a particular year. Licenses may be renewed annually by the filing of an application in accordance with the provisions of Section 20-3. If the café plan is to be modified, a new café plan with a non-refundable \$250 application review fee must accompany the renewal application. The Borough may temporarily suspend a Sidewalk Café License if access to the sidewalk is needed in connection with public work to be performed in the area.

Sec. 29-6 Rules, Regulations and Specifications

A Sidewalk Café authorized and operating pursuant to this section shall comply with all of the following rules and regulations, and such others as may be adopted by ordinance of the Common Council.

(a) The Café shall be operated and maintained in accordance with the Café Plan as finally approved, and by the same person who operated and maintains the abutting retail food establishment.

(b) The placement of commercial grade wood or metal furniture, apparatus, decoration or appurtenance used in connection with the operation of the Sidewalk Café in relation to any fire hydrant, plug or standpipe permanent fixture shall be approved by specific written authorization of the Fire Official based upon his review of the Café Plan.

(c) No furniture, apparatus, decoration or appurtenance used in connection with the operation of the Sidewalk Café shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building or structure.

(d) No furniture, apparatus, decoration or appurtenance used in connection with the operation of the Sidewalk Café shall be located in or project or protrude into the required pedestrian passageway.

(e) The Sidewalk Café may be separated from the required pedestrian passageway by a suitable temporary and portable barrier designed for such or similar use and not exceeding four (4) feet in height, which shall have been shown on and approved as part of the Café Plan.

(f) Any table service provided at the Sidewalk Café shall be provided by persons engaged or employed for that purpose and shall be furnished to seated patrons only. Table service is not required, and retail food establishments that do not provide table service may operate Sidewalk Cafes in which patrons carry their food from inside the premises to tables located in the Sidewalk Café.

(g) The sidewalk area utilized by the Sidewalk Café shall be kept clean and free of litter and shall be washed as required. Trash receptacles shall be provided as required and approved by the Borough. If no table service is provided, the trash receptacles shall include those needed for recycling.

(h) The following types of signs and decorations are prohibited within the sidewalk café and the portable barrier:

- (1) Signs painted or lettered on banner type material;
- (2) Tent type signs placed on sidewalks;
- (3) Moving, fluttering and flapping pennants, flags, balloons and similar decorations;
- (4) Signs including logo's applied painted or lettered upon umbrellas.

(i) Noise shall be kept at such a level as to comply in all respects with the provisions of applicable ordinances of the Borough.

(j) Sidewalk Cafes shall be permitted to operate only within a permitted district and only from 7:00 a.m. until 10:00 p.m. during the months of April to October, inclusive.

- (k) Furniture, apparatus, decorations and appurtenances may be secured in accordance with a Sidewalk Café Plan which describes the method for securing same that is specifically approved by the Chief of Police and the Fire Chief with particular attention being material being used to create a public hazard.
- (l) No food may be prepared in the Sidewalk Café or outside the adjacent building.
- (m) The licensee shall comply with all other ordinances of the Borough.

Sec. 29-7 Alcoholic Beverages - Prohibited

The sidewalk area upon which a Sidewalk Café has been authorized to operate pursuant to this section shall not constitute premises duly licensed for sale and consumption of alcoholic beverages. Customers and patrons of the Sidewalk Café shall not be permitted to carry to or consume any alcoholic beverages on such sidewalk area.

Sec. 29-8 Notice of Violation; Failure to Comply

Upon a determination by the Borough Clerk that a licensee has violated one of more of such provisions, the Borough Clerk shall give written notice to the licensee to correct such violation within twenty-four (24) hours of the receipt of such notice by the licensee. In the event that the licensee fails or refuses to correct such violation within such period, a license revocation shall take effect immediately. A revoked license holder shall be subject to daily penalties if immediate compliance does not occur.

Sec. 29-9 Appeals

Any person aggrieved by any action of the Borough Clerk, in the denial or revocation of a Sidewalk Café License, shall have the right to appeal to the Borough Administrator. The appeal shall be taken by filing with the Borough Clerk, within ten (10) days after the notice of the action complained of has been served personally upon the licensee or mailed, postage prepaid, to the licensee at the address given by the licensee in making application under Section 29-3 herein, a written statement setting forth fully the grounds for appeal. The Borough Clerk shall set a time and place of hearing for the appeal, at which time the Borough Administrator shall conduct a hearing and affirm, modify or reverse the action appealed from.

Any person aggrieved by a decision of the Borough Administrator may make an appeal to the Common Council. Such appeal shall be taken by filing with the Borough Clerk within ten (10) days after notice of the decision has been made, a written statement setting forth fully the grounds of the appeal, along with a fee of twenty-five (\$25.00) dollars. The Borough Clerk shall set a time and place of hearing for the appeal, at which time the

Common Council shall conduct a hearing and affirm, modify or reverse the decision appealed from.

Sec. 29-10 Penalties

Any person convicted of a violation of any of the provisions of this section shall be subject to a fine of at least two hundred (\$200.00) dollars and not exceeding five hundred (\$500.00) dollars for each and every offense in addition to court costs.

Section II – Severability

If any section of this ordinance is adjudged invalid, such adjudication shall apply only to the specific sections so adjudged and the remainder of the ordinance shall be deemed valid.

Section III – Repealer

All ordinances or sections thereof in conflict with this Ordinance are hereby repealed.

Section IV – Effective Date

This ordinance shall take effect upon its final passage and publication according to law.

Andrea Lea Quinty, Borough Clerk

Mildred T. Trotman, Mayor

First Reading: February 14, 2006

Final Reading: March 7, 2006

NEWSPAPER PUBLICATIONS:

First Insertion: February 21, 2006

Final Insertion: March 17, 2006