

LOCAL LAW 6 OF 2015

**AMENDING THE ZONING CODE'S REGULATIONS
FOR THE RAILROAD DISTRICT TO PERMIT
OUTDOOR SEATING AS AN ACCESSORY USE**

Be it enacted by the Board of Trustees of the Village of Irvington as follows:

Section 1: Section 224-46, Paragraph B is hereby amended by adding a new paragraph (6) to read as follows:

- (6) Outdoor seating. The Village Administrator is authorized to issue a revocable permit for outdoor seating on the property of a permitted restaurant or food retail use, subject to the following requirements:
 - (a) The permit shall expire on December 31 of the calendar year in which it is issued. It may be renewed annually, subject to the conditions of this subsection.
 - (b) An application for outdoor seating shall state the name and address, phone number and e-mail address of the applicant; and the proposed hours of operation of the outdoor seating. If the applicant is not the owner of the premises to which the outdoor seating is accessory, (s)he must provide proof of the property owner's consent to the outdoor seating.
 - (c) The applicant must submit, prior to issuance of the permit, a certificate of general liability insurance, covering the outdoor seating area, with a minimum liability limit of \$1,000,000 per occurrence.
 - (d) The outdoor seating area shall be conducted only as accessory to a lawfully operating food establishment, and by the entity that operates the establishment.
 - (e) 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, and upon payment of the fee. The permit may include any conditions that the Village Administrator deems to be reasonable and necessary to protect the health, safety and welfare of the public.

- (f) No portion of the outdoor seating area may extend beyond the property lines of the property for which the permit is issued.
- (g) No outdoor seating area may be used other than between 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, nor when the establishment to which it is accessory is not open.
- (h) All food and beverages served at the outdoor seating area shall be prepared or sold within the existing food establishment.
- (i) The outdoor seating area shall be kept neat and clean at all times.
- (j) No outdoor lighting may be used on or for the outdoor seating area except for low-level tabletop lighting.
- (k) No live or mechanical music may be operated or used within or for the outdoor seating area.
- (l) All alcoholic beverages to be served at an outdoor seating area shall be prepared within the existing restaurant, and alcoholic drinks shall be served only to patrons seated at chairs, benches and/or tables. All alcoholic beverages must be served by a waiter, who brings the beverage to the outdoor seating area. The drinking of alcoholic beverages by a member of the public while a patron at an outdoor seating area, within the confines of the outdoor seating area, shall not be construed as a violation of any local law controlling consumption of alcoholic beverages in a public area. The operator of an outdoor seating area 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 outdoor seating area 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 outdoor seating area shall be prohibited.
- (m) Upon learning that any permittee operating an outdoor seating area has violated any provision of this subsection or the terms and conditions of an outdoor seating area permit or has engaged in any practice that constitutes a danger to the health or safety of any patron or pedestrian, the Village Administrator shall give notice to

the permittee to correct such violation or cease such practice within 24 hours. If the permittee fails to comply with such notice, the Village Administrator may suspend the permit for a period not in excess of 30 days, during which time the permittee shall be entitled to a hearing before the Village Administrator, at which the permittee may be represented by counsel, to present evidence in his or her behalf and confront the evidence against the permittee. Within 48 hours after the hearing is closed, the Village Administrator must either revoke the permit or reinstate the permit. In reinstating the permit, the Village Administrator may impose additional conditions related to the violation or improper practice that has been found. If the permittee does not request a hearing, the permit shall be permanently revoked.

Section 2: Section 224-46, Paragraph B, subparagraph (3)(b) is hereby amended to read as follows (new language in *italics*):

(b) *Except for outdoor seating permitted pursuant to § 224-46B(6), all permitted uses shall be carried on in buildings fully enclosed on all sides.*

Section 3: Chapter 114 (Fees and Charges) is hereby amended by adding the following new fee:

224-46 Fee for outdoor seating permit \$25

Section 4: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 5: This local law shall take effect upon filing with the Secretary of State.