

Local Law Filing

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County City Town Village

(select one:)

of Hoosick Falls

Introductory Local Law No. 5 of the year 2022

**A LOCAL LAW AUTHORIZING THE ISSUANCE OF TEMPORARY PERMITS FOR
OUTDOOR DINING AND FOR SIDEWALK SALES DISPLAYS.**

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

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

VILLAGE OF HOOSICK FALLS

INTRODUCTORY LOCAL LAW NO. 5 OF 2022 A LOCAL LAW AUTHORIZING THE ISSUANCE OF TEMPORARY PERMITS FOR OUTDOOR DINING AND FOR SIDEWALK SALES DISPLAYS.

Section 1. Findings and Purpose.

- A. The Board of Trustees of the Village of Hoosick Falls finds that New York restaurants and other food service establishments have utilized the opportunity to obtain temporary outdoor dining permits during the Covid-19 pandemic. The Board of Trustees believes it would be prudent to make outdoor dining a more permanent component of restaurants and other food service establishments in the Village.

The purpose and intent of this local law is to provide restaurants and other food service establishments the opportunity to provide outdoor dining when indoor space cannot be used to maximize capacity or if in the interest of the restaurants and other food service establishments to provide their patrons additional dining options, while also protecting public health, safety, and welfare by regulating such outdoor dining.

- B. The Board of Trustees of the Village of Hoosick Falls further finds that the outdoor display of merchant's goods and wares promotes sales and business opportunities for merchants, and supports economic growth and vitality in the Village of Hoosick Falls.

The purpose and intent of this local law is to further provide economic opportunities for merchants in the Village of Hoosick Falls while also protecting public health, safety, and welfare by regulating such sidewalk sales displays.

Section 2. Definitions.

FOOD SERVICE ESTABLISHMENT – A restaurant, bar, cafeteria or any other establishment preparing food for consumption and sale holding a New York State Department of Health Permit to operate a food service establishment and/or a State Liquor Authority License to serve alcoholic beverages.

MERCHANT – A person or entity who sells goods, products and/or items to the public within a building.

OUTDOOR DINING – The use of an open-air eating area accessory to a restaurant not situated within the building containing the restaurant.

OUTDOOR DINING AREA – An open-air eating area accessory to a restaurant not situated within the building containing the restaurant.

SIDEWALK – A sidewalk owned and/or maintained by the Village of Hoosick Falls as a public sidewalk.

SIDEWALK SALES DISPLAY – The display of a merchant's goods, products and/or items for sale located in front of the merchant's building on a sidewalk. The goods, products and/or items displayed shall be the same as, or similar to, those sold inside the merchant's building and by the merchant who operates the business inside the building.

Section 3. Temporary Permits for Outdoor Dining.

There is hereby established a Temporary Permit for Outdoor Dining to be administered by the Village of Hoosick Falls Building Department. The purpose of the Temporary Permit is to allow food service establishments to establish a temporary outdoor seating area subject to an Outdoor Dining Permit issued by the Village of Hoosick Falls Building Department.

Section 4. Regulations for Temporary Permits for Outdoor Dining

A. Term.

A Temporary Permit for Outdoor Dining shall commence upon issuance by the Village of Hoosick Falls Building Inspector and shall be valid only until December 31 of the year in which it was issued. The permit may be renewed annually, at the discretion of the Village Board of Trustees, and upon payment by the applicant of the permit fee.

B. Location.

Eligible locations for outdoor dining include existing parking lots, decks, patios, terraces, lawns, sidewalks and gardens which are adjacent to or within a reasonably proximate distance from the restaurant or other food service establishment to allow for safe and efficient service to patrons from the restaurant or other food service establishment.

C. General Operating Rules

1. No outdoor dining operation can occur without meeting the minimum New York State standards, as well as applicable federal requirements, including but not limited to such minimum standards of the Americans with Disabilities Act (ADA), Centers for Disease Control (CDC), Environmental Protection Agency (EPA), and the United States Department of Labor's Occupational Safety and Health Administration (OSHA).
2. All outdoor dining operations must meet social distancing requirements as may be required under applicable health guidelines and guidance as set forth by the CDC, New York State (including Executive Orders) and Rensselaer County Department of Health.
3. Applicant must provide a floor plan diagram indicating the total square footage of property to be used for the outdoor dining area, the location of all tables and chairs, the location of all trash receptacles, pedestrian and dining areas, width and length of the dining area, fire access, ADA access, the location of any tents and awnings, and permanent obstructions (signs, utility poles, hydrants, etc.).
4. Applicant must provide the existing indoor capacity of the restaurant or other food service establishment based on the current certificate of occupancy and/or Rensselaer County Department of Health approvals. A permit for outdoor dining shall not exceed the current occupancy limits of the indoor establishment.
5. Applicant must provide a parking table that includes the existing and proposed number of parking spaces, number of employees, and propose number of patron seats. The parking table should also indicate if a designated curbside pickup space is provided.

6. Receptacles for all garbage, trash, and other refuse must be adequately provided. No garbage or trash shall be allowed to accumulate in the area of the outdoor dining or any area adjacent thereto. All trash receptacles must be emptied as needed during business hours, and upon the close of business daily.
7. Entryways, emergency exits and fire hydrants shall not be obstructed.
8. Outdoor entertainment, music or public address system, or any other forms of noise generation within the outdoor dining area, must comply with any applicable noise regulation of the Village of Hoosick Falls, as may be amended from time to time.
9. No outdoor dining shall be permitted before 7 a.m. or after 11 p.m.
10. No exterior lighting which unreasonably illuminates beyond the boundaries of the outdoor dining area shall be permitted.
11. Where the outdoor area occupies sidewalks, parking areas or other space which is not owned by the applicant or specifically occupied by the applicant pursuant to a written lease agreement, the applicant shall provide a written, signed and notarized consent of the owner of the property or properties upon which the outdoor dining area is proposed to be operated. Prior to the issuance of a Temporary Permit for Outdoor Dining, there shall be an agreement executed by the applicant and, if the owner or owners of such outdoor dining area are a different party than the applicant, such owner or owners, to defend and save harmless the Village of Hoosick Falls, its officers and employees against any loss, liability or damages sustained by any person or to any property as a result of the operation of the outdoor dining area, together with a certificate of insurance issued to the applicant and, if applicable, the owner as insureds and naming the Village, its officers and employees as additional insureds, in the minimum amounts as required pursuant to section 4(D) hereof.
12. For restaurant operations on a public or private sidewalk, or public right-of-way:
 - a. Sidewalks fronting the entire property must be in good condition, without violations or illegal encroachments.
 - b. No permanent structures may be affixed to the sidewalk area used for the outdoor dining area and the area may only be occupied by chairs, tables, benches, umbrellas and planters for the convenience of the patrons. However, the sidewalk area used for the outdoor dining must be marked off and the boundaries of the approved areas clearly delineated by railings, ropes, plants or similar enclosures.
 - c. Sidewalk clearances must always be sufficient to ensure a pedestrian path free of obstructions. There must be a minimum clearance of four feet from the curb to the sidewalk area used for the outdoor dining area.
13. For restaurants operations in parking lots:
 - a. The parking lot area used for the outdoor dining must be marked off and the boundaries of the approved areas clearly delineated by railings, ropes, planters or similar enclosures.
 - b. The dining area must be a safe distance from parked vehicles and vehicular traffic. Distance should be indicated on the floor plan diagram submitted herewith.

- c. Walkway clearances must always be sufficient to ensure an accessible path free of obstructions.
- d. In shared parking lots (i.e. a shopping center), hours of operation shall be approved by the landlord and shall be based on the current tenant mix but shall not exceed the hours of operation limit set by section 4 (C) (8) above.

Section 5. Temporary Permits for Sidewalk Sales Displays.

There is hereby established a Temporary Permit for Sidewalk Sales Displays to be administered by the Village of Hoosick Falls Building Department. The purpose of the Temporary Permit is to allow merchants to establish a temporary sidewalk sales display area subject to a Sidewalk Sales Display Permit issued by the Village of Hoosick Falls Building Department.

Section 6. Regulations for Temporary Permits for Sidewalk Sales Displays.

A. Term.

A Temporary Permit for Sidewalk Sales Displays shall commence upon issuance by the Village of Hoosick Falls Building Inspector and shall be valid only until December 31 of the year in which it was issued. The permit may be renewed annually, at the discretion of the Village Board of Trustees, and upon payment by the applicant of the permit fee.

B. General Operating Rules.

1. The sidewalk sales display area must not exceed thirty (30) inches in width and ten (10) feet in length, and shall not extend beyond either side of the building or property side lot lines. All such sidewalk sales display areas must be placed on the inner portion of the sidewalk away from the curb.
2. The location of the sidewalk sales display area shall maintain at all times an accessible path in accordance with the Americans with Disabilities Act, nor impair, hinder or block pedestrian access upon such sidewalk.
3. The sidewalk sales display shall not hinder, impair or block any entrance or exit to the merchant's building, and shall maintain an accessible path in accordance with the Americans with Disabilities Act and New York State Fire and Building Code.
4. The sidewalk sales display shall not be permitted on public grass areas situated between the sidewalk and the street edge or curb.
5. Only the merchant who operates the business in the building shall be permitted to have a sidewalk sales display area in front of the merchant's business.
6. A sidewalk sales display shall be setup only during the operating hours of the business, and shall not remain on the sidewalk at any time when the business is not in operation. No sidewalk sales display shall remain overnight between the closing and opening of the business.

7. An applicant must provide to the Village Building Department at the time of application a plan or diagram of the merchant's building, property lines, and proposed sidewalk sales display area.
8. No exterior lighting which unreasonably illuminates beyond the boundary of the sidewalk sales display area shall be permitted.
9. The sidewalk sales display shall not include vending machines, which are prohibited on all sidewalks within the Village of Hoosick Falls.

Section 7. Insurance Requirements.

Every business must secure and maintain throughout the term of the Temporary Permit for Outdoor Dining or Temporary Permit for Sidewalk Sales Displays, as the case may be, liability insurance issued by a company duly authorized to do business in the State of New York, insuring the business and the Village of Hoosick Falls and to hold them harmless from and against any claim, injury or damage caused or alleged to be caused by or as a result of any construction, operation or use undertaken pursuant to such permit issued hereunder in the following minimum amounts:

- a. For bodily injury, including death, in the minimum amount of \$1,000,000 for any one person and the minimum amount of \$1,000,000 for any one accident; and for property damage in the minimum amount of \$1,000,000. Failure to maintain insurance coverage in the foregoing amounts shall cause the immediate revocation of the permit.
- b. The Temporary Permit for Outdoor Dining or Temporary Permit for Sidewalk Sales Displays, as the case may be, shall be immediately revoked if the holder of such permit fails to maintain insurance coverage required pursuant to this subsection of the section, except that such permit may be reinstated if such holder presents proof satisfactory to the Village Attorney that the required insurance coverage is in full force and effect.

Section 8. Building Inspector Authority.

A. The Building Inspector is authorized to review applications and issue permits only when all applicable conditions and requirements of this Local Law have been satisfied.

B. In the event the Building Inspector determines that after a permit is issued the permittee is not complying with the conditions and requirements of the permit, or if the Building Inspector identifies a condition that may result in a hazard to the health or safety of persons or property arising from the temporary outdoor dining or sidewalk sales displays, the Building Inspector may immediately revoke the Temporary Permit issued hereunder and all activity authorized by such Temporary Permit will cease immediately. At the Building Inspector's discretion, the permittee may be given a reasonable amount of time up to and not exceeding ten (10) days to remedy violations that do not pose an immediate threat to health or safety of persons or property.

C. In receiving a Temporary Permit under this local law, the food service establishment or merchant, as the case may be, authorizes the Building Inspector, and any other designated Village official or employee, to enter the property and interior of the premises in order to ensure compliance with the permit.

Section 9. Penalties.

A violation of this Local Law is hereby declared to be an offense punishable by a fine not to exceed \$500 or imprisonment for a period not to exceed fifteen (15) days, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine of not to exceed \$1000 or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not to exceed \$1500 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation. In addition to the foregoing provisions, the Village shall have such other remedies for any violation or threatened violation of this Local Law as is now or may hereafter be provided by law.

Section 10. Repealer.

Village of Hoosick Falls Local Law No.1 of 1983 is hereby repealed in its entirety.

Section 11. Severability.

If any section or subdivision, paragraph, clause, or phrase of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

Section 12. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Introductory Local Law No. 5 of 2022 of the (County)(City)(Town)(Village) of Hoosick Falls was duly passed by the Village Board of Trustees on _____, 2022, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.~~
(Name of Legislative body)
(Elective Chief Executive Officer)*

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~
(Name of Legislative body)
(Elective Chief Executive Officer)*

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~
(Name of Legislative body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: _____