

TOWNSHIP OF MILLBURN
OFFICE OF THE CLERK
973-564-7073

APPLICATION TO OPERATE A SIDEWALK CAFÉ

Name of Business _____

Address of Business _____

Name/Address of Owner _____

1. Describe below how many temporary structures, equipment and apparatus are to be used in connection with the operation of the Sidewalk Café.

Tables	_____	Size	_____	Chairs	_____	Size	_____
Benches	_____	Size	_____	Umbrellas	_____	Size	_____
Fences	_____	Size	_____	Barriers	_____	Size	_____
Planters	_____	Size	_____	Other	_____	Size	_____

2. Seating Capacity of existing establishment _____

3. Seating Capacity of proposed Sidewalk Café _____

4. Retail Food Establishment License Number _____

5. Insurance Certificate Attached [Pursuant to Section 4-40.5(b)] _____

6. Indemnification Agreement Attached [Pursuant to Sec. 4-40.5(c)] _____

Signature of Applicant/Date

Signature of Owner/Date

FOR OFFICE USE ONLY

Application Fee: \$50.00 received on _____

License Fee (Based on Reverse Side) _____

Township Clerk

Reviewed/Recommendation to grant () deny ()

Construction/Zoning Official

Reviewed/Recommendation to grant () deny ()

Health Official

Reviewed/Recommendation to grant () deny ()

Police Chief

Reviewed/Recommendation to grant () deny ()

Fire Official

Reviewed/Recommendation to grant () deny ()

Code Enforcement

LICENSE FEE SCHEDULE

Annual Application Fee - \$50.00

Café Rates/Fees –

1 to 8 Seats w/no more than 2 tables	\$100.00
9 to 12 Seats w/no more than 3 tables	\$150.00
13 to 16 Seats w/no more than 4 tables	\$200.00
17 to 20 Seats w/no more than 5 tables	\$250.00
21 or more Seats with 6 or more tables	\$400.00

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

AGREEMENT made _____, 20__

BETWEEN

_____, located at

AND

THE TOWNSHIP OF MILLBURN, in the County of Essex, State of New Jersey
(the "Township")

AND

THE COUNTY OF ESSEX, State of New Jersey (the "County")

The undersigned hereby releases the Township and their respective officers, employees and agents (collectively, the "Township Parties"), as well as the County and their respective officers, employees and agents (collectively, the "County Parties"), from any liability of any kind whatsoever arising out of, based upon, or resulting from the operation of a Sidewalk Café at _____ in the Township of Millburn.

The undersigned further agrees to forever defend, indemnify and save harmless the Township of Millburn and the County of Essex, their officers, agents and employees, from and against any and all claims, causes of action, injuries, losses, damages, expenses, fees and costs arising out of, or which may arise out of, the licensee's operation of such sidewalk café.

Sworn and subscribed to before me
this day of _____, 20__

(Notary Public)

By: _____
(Signature)

(Print Name)

(Title)

**TOWNSHIP OF MILLBURN
ORDINANCE NO. 2361-10**

**ORDINANCE AMENDING SECTION 4-40 OF THE MILLBURN
TOWNSHIP ORDINANCE CODE RELATING TO SIDEWALK CAFES**

WHEREAS, the Township finds that their fees for Sidewalk Cafes are below those of similar towns; and

WHEREAS, the Township feels by amending their fees and dedicating them to a Special Reserve in the Capital Fund for sidewalk maintenance, the Township will be able to provide a benefit to the whole community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX AND STATE OF NEW JERSEY, that Chapter 4, "General Licensing" of the Revised General Ordinances of the Township of Millburn is hereby amended as follows:

Section 1. Subsection 4-40.4 "License Fee" of The Revised General Ordinance of the Township of Millburn (1994) (the "Code") is hereby amended to read in its entirety as follows:

"4-40.4 License Fees.

The following fees are set for Sidewalk Café Licenses:

Application Fee - \$50.00

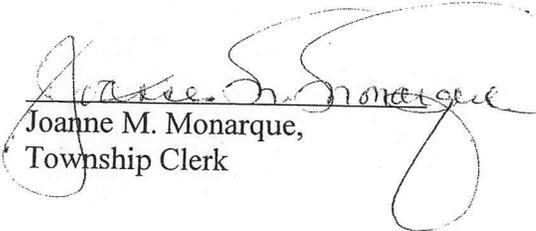
Café Rates/Fees –

1 to 8 Seats w/no more than 2 tables	\$100.00
9 to 12 Seats w/no more than 3 tables	\$150.00
13 to 16 Seats w/no more than 4 tables	\$200.00
17 to 20 Seats w/no more than 5 tables	\$250.00
21 or more Seats with 6 or more tables	\$400.00

Section 2. This ordinance shall take effect after final passage and publication as required by law.

ATTEST:

MILLBURN TOWNSHIP


Joanne M. Monarque,
Township Clerk

By: 
Thomas C. McDermott
Mayor

4-39.17 Motor Vehicle Information. The Township Police Department shall provide, when requested, towing operators with Department of Motor Vehicles information regarding registered owners and lien holders. The information requested and given shall be in conformance with N.J.S.A. 39:10A et seq. and shall not in any way violate the confidentiality that is reposed in the Police Department. (Ord. No. 5-90 § 1; Ord. No. 11-97 § 1)

4-39.18 Supplementary Rules and Regulations.

- a. The Township Chief of Police may issue rules and regulations from time to time on the operation of towing services and storage facilities to implement but not exceed the purpose of this section.
- b. Such rules and regulations shall be issued by publication in a newspaper in the Township. Copies shall be mailed to any and all towing operators licensed by the Township or any interested parties who request such copies.
- c. Towing operators may, in writing, request a hearing before the Township Business Administrator within thirty (30) days of the issuance of the rules and regulations.
(Ord. No. 5-90 § 1; Ord. No. 4-93 § 1; Ord. No. 11-97 § 1)

4-39.19 Enforcement. The Township Chief of Police is hereby designated to enforce the provisions of this section in accordance with due process of law. (Ord. No. 4-93 § 1; Ord. No. 11-97 § 1)

4-39.20 Copies of Regulations and Fees. Copies of such rules and regulations, this section and the fee schedules of the licensees shall be made available to the public at the Township Police headquarters during normal business hours. (Ord. No. 4-93 § 1; Ord. No. 11-97 § 1)

4-40 SIDEWALK CAFES.

4-40.1 Definition. Sidewalk cafe shall mean a restaurant, fast-food restaurant or retail food establishment which is a permitted use under the Township's Development Regulations and Zoning Ordinance and which holds a valid license to serve food to be consumed by the public at tables located within the restaurant's lot area or on the sidewalk in front of the restaurant. (Ord. No. 19-95 § 1)

4-40.2 License Required; Term. No person shall operate a sidewalk cafe within the Township without having first obtained a sidewalk cafe license in accordance with the requirements of this section. The license shall be issued by the Township Committee and may contain conditions. The license shall not be transferable and shall be for the period of April 1st through December 31st of the issuing year. The license shall, however, be subject to future amendments to this section or other applicable regulations. (Ord. No. 19-95 § 1; Ord. No. 2211-03 § 1)

4-40.3 Application for License. Each applicant for a sidewalk cafe license shall submit an application to the Township Clerk on forms furnished by the Township Clerk at least two (2) months prior to the commencement of the license period together with the license fee. The application shall set forth:

- a. The name and address of the applicant.
- b. The name and address of the owner of the restaurant of which the sidewalk cafe is a part.
- c. The written consent to the application by the owner of the restaurant (if other than the applicant).
- d. A description of the dimensions of the area and all temporary structures, equipment and apparatus to be used in connection with operation of the sidewalk cafe, including (but not limited to) tables, temporary fences and barriers, planters, benches, chairs and umbrellas (if any).
- e. A statement of the seating capacity of the proposed sidewalk cafe and of the existing restaurant.
- f. A sketch drawn to scale (but not necessarily by a professional) of the proposed design and location of the sidewalk cafe, including the location of all appurtenances, demonstrating that pedestrian traffic will not be impeded and that the provisions of subsection 4-40.5a will be satisfied. The sketch required by this paragraph shall be reviewed by the Construction Code Official/Zoning Officer.
- g. The entire application shall be reviewed by the Police Department for public safety and Alcoholic Beverage Control issues, the Fire Official for public fire safety, and the Health Officer for health issues. The review and report on the applications shall be completed by Township Officials and acted on by the Township Committee within one month of filing of the application.
- h. Enforcement of the requirements and specifications for sidewalk cafes shall be the responsibility of the Police Department, Fire Official, Health Officer and/or Zoning or Property Maintenance Officer.
(Ord. No. 19-95 § 1; Ord. No. 2211-03 §§ 2-4)

4-40.4 License Fee. The fee for a sidewalk cafe license shall be fifty dollars (\$50.00) per year payable upon submission of an application for a license. (Ord. No. 19-95 § 1; Ord. No. 2211-03 § 5)

4-40.5 Requirements and Specifications.

- a. All furniture, equipment or decoration used in connection with a sidewalk cafe shall be located in such a way that there shall be a minimum of five (5') feet of paved sidewalk for use by the public between the curb and the operations of the sidewalk cafe and shall not exceed the width of the storefront unless the owner of the property adjacent to the sidewalk cafe files a written consent to the application for the adjacent property.

- b. No sidewalk cafe license shall be issued unless the licensee shall have first filed with the Township Clerk a copy of an insurance policy or certificate of insurance, issued by a company duly authorized to transact business under the laws of New Jersey, providing for the payment of not less than one million dollars (\$1,000,000.00) to satisfy all claims for damage by reason of bodily injuries to, or the death of, any person as a direct or indirect result of the operation of the sidewalk cafe or for injury to any person occurring on the premises occupied by such cafe, and further providing for the payment of not less than ten thousand dollars (\$10,000.00) to satisfy all claims for property damage occurring as a direct or indirect result of the operation of such cafe. The policy and certificate shall name the Township of Millburn as an additional insured and provide for ten (10) days' written notice plus three (3) days mail service of any proposed cancellation of the policy to the Township Clerk.
- c. No sidewalk cafe license shall be issued unless the licensee shall have first executed and filed with the Township Clerk an indemnification agreement on the form provided by the Township Clerk pursuant to which the licensee shall agree to forever defend, protect, indemnify and save harmless the Township of Millburn, its officers, agents and employees, from and against any and all claims, causes of action, injuries, losses, damages, expenses, fees and costs arising out of, or which may arise out of, the licensee's operation of such sidewalk cafe.
- d. The property shall be maintained as required by applicable Township regulations including the Property Maintenance Code and Chapter 12 of the State Sanitary Code.
- e. Wine and beer are the only alcoholic beverages which may be consumed at a sidewalk cafe on the condition that table service is provided.
- f. Operating hours shall be between the hours of 7:00 a.m. and 11:00 p.m.
- g. The licensee shall be responsible for maintaining good order and control of patrons and the sidewalk cafe premises.
- h. Enforcement of the requirements and specifications for sidewalk cafes shall be the responsibility of the Police Department, Health Officer, Fire Official, and/or Zoning or Property Maintenance Officer. The review and report on the applications shall be completed by Township Officials and acted on by the Township Committee within one month of the filing of the application.
- i. Food preparation, cooking or storage of any food items is prohibited outside the establishment at all times.
(Ord. No. 19-95 § 1; Ord. No. 2211-03 §§ 6, 7)

4-40.6 Revocation of License; Notice of Hearing; Penalty.

- a. Licenses issued under the provisions of this section may be revoked by the Township Business Administrator after hearing on notice for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for license.
 2. Any violation of this section or applicable law or Township regulation.
- b. Notice of the hearing for revocation of license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.
- c. The penalty upon an adverse finding for a first offense shall range from a letter of reprimand to a suspension of from one (1) to thirty (30) days of the sidewalk cafe license, for a second offense a suspension of from thirty (30) to sixty (60) days and for a third offense a suspension of sixty (60) days to one (1) year.
(Ord. No. 19-95 § 1; Ord. No. 2211-03 § 8)