

ORDINANCE #955-2022

**AN ORDINANCE OF THE BOROUGH OF OXFORD, CHESTER COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 27, ZONING, PART 2, DEFINITIONS,
SECTION 27-202, DEFINITIONS OF TERMS; AND PART 13, SUPPLEMENTAL LAND
USE REGULATIONS, SECTION 1330, OUTDOOR CAFÉS REGARDING OUTDOOR
CAFÉS AND THE OUTDOOR DISPLAY OF MERCHANDISE; AND REPEALING
CHAPTER 21, STREETS AND SIDEWALKS, PART 4, OBSTRUCTIONS AND
ENCROACHMENTS, SECTION 21-406, STORAGE AND DISPLAY OF
MERCHANDISE ON SIDEWALKS, OF THE CODE OF THE BOROUGH OF
OXFORD.**

BE IT ENACTED AND ORDAINED by the Council of the Borough of Oxford, Chester County, Pennsylvania, that certain provisions of Chapter 27, Zoning, and Chapter 21, Street and Sidewalks, as amended, be further amended as follows:

SECTION 1. Chapter 27, Zoning, Part 2, Definitions, §27-202, Definitions of Terms, as amended, shall be further amended as follows:

A. The definition of “Outdoor Café” shall be amended to read as follows:

OUTDOOR CAFÉ – An area associated with (a) a restaurant, as defined by this chapter; and/or (b) any premises licensed by the Pennsylvania Liquor Control Board, pursuant to the regulations of that Board, to conduct business on said premises, but not meeting the definition of Restaurant in this chapter. The area may be used for the purpose of furnishing food and/or beverages to the public to be consumed on the premises in an area on the sidewalk directly abutting and adjacent to the restaurant or other licensed premises.

B. The definitions of “Restaurant” shall be amended to read as follows:

RESTAURANT – A building in which the principal purpose is the preparation and serving of food and beverages to the public for consumption on- or off-site, and which contains inside seating facilities and may, in addition, provide outdoor eating and drinking facilities when in accordance with the terms of this chapter. The term may, but need not, include the sale of alcoholic beverages to patrons. The term includes coffee shop, bistro, brew pub, or similar establishment where the principal purpose is to prepare and serve food and beverages and which has indoor seating. The term shall not include a brewery or a tasting room that is associated with a brewery in accordance with Pennsylvania Liquor Control Board regulations, nor shall it include any establishment where the provision of food and beverages, whether prepared on site or pre-packaged, is ancillary to the principal use of the property.

SECTION 2. Chapter 27, Zoning, Part 13, Supplemental Land Use Regulations, §27-1330, Outdoor Cafés, shall be replaced in its entirety and shall read as follows:

§27-1330. Uses Permitted or Prohibited on Public Sidewalks.

1. Outdoor Display of Merchandise. It shall be unlawful for any person to store or display any goods, wares, or merchandise associated with the principal retail use of the property upon any public sidewalk except in accordance with the terms of this section.

A. There shall be a minimum 4-foot wide sidewalk corridor that shall remain free and clear of any displays of merchandise and that shall provide for unobstructed passage of pedestrians and persons in wheelchairs. This corridor shall connect directly with similar corridors on adjacent properties to the maximum extent feasible.

B. The display of merchandise, goods, or wares associated with the principal retail use of the property shall be permitted between the inner edge of the 4-foot wide travelable sidewalk corridor required in A, above, and the front façade of the building.

- C. No merchandise shall be displayed outdoors in a manner that is intended to or has the effect of interfering with vehicular traffic or distracting motorists.
- D. The outdoor display of merchandise shall not interfere with the sight lines of traffic and shall not impair the visibility of any public or private sign.
- E. No merchandise shall be displayed outdoors in a manner that, as determined by the Code Enforcement Officer, allows, or has the potential to allow, the merchandise to fall into the street or sidewalk, or to blow, spill, or otherwise become disorderly, hazardous, or a nuisance.
- F. All merchandise displayed outdoors, and anything associated therewith, shall be removed and placed indoors at the close of business each day.
- G. Any merchandise that is placed on the public sidewalk in violation of this provision, or that otherwise constitutes a hazard to the public, may be removed by the Code Enforcement Officer or a police officer with or without notice to the owner.
- H. Music is permitted as an element of this sidewalk use, but shall not present a noise disturbance to adjacent properties or beyond. All activities associated with the operation of the sidewalk use shall comply with the terms of Chapter 6, Conduct, and Chapter 10, Health and Safety, of the Code of the Borough of Oxford.
- I. A medical marijuana dispensary, where permitted under the terms of this chapter, must operate entirely indoors, and no part of such use shall be permitted on a public sidewalk.

2. Outdoor Cafés.

- A. Purpose. Outdoor cafés, as defined in this chapter, are permitted in the C-3 Central Business District pursuant to the terms of this section and all applicable regulations of this chapter. The purposes of the outdoor café designation are to promote and enhance the pedestrian character and experience within the Borough's Central Business District, add to the vibrancy of the downtown environment, and strengthen the vitality of the eating and drinking sector as an essential component of the Borough economy, while protecting adjacent properties and the general streetscape against deleterious impacts.
- B. Outdoor café permit required. It shall be unlawful for any person to erect, construct, or maintain an outdoor café without first applying for and securing a permit therefor as provided in this chapter. The permit shall be valid from the date of issuance until the end of the calendar year in which the permit was issued. No outdoor café permit shall be issued to any establishment that does not meet the definition of outdoor café.
- C. Permit Application.
 - (1) Any person who shall desire to open an outdoor café in the C-3 zoning district of the Borough shall make application therefor in writing to the Code Enforcement Officer. Such application shall be accompanied by such application fee as required by a schedule of fees established by and amended from time to time by resolution of Borough Council. Such application shall be made annually after the first of the year upon forms provided by the Borough and shall set forth and include the following:
 - (a) The name and address of the applicant.
 - (b) A scaled plan specifying the precise location of the outdoor café

portion of the restaurant or licensed premises of which the proposed outdoor café is to be a part. The plan shall include a proposed seating plan, a calculation of the proposed occupant load and, where applicable, the location of any adjacent parking spaces in the public right-of-way.

- (c) The written consent of the property owner, if different than the applicant.
 - (d) An agreement of indemnity as outlined in subsection D below, and a certificate of liability insurance naming the Borough as an additional insured.
 - (e) Such other information as may be required from time to time by the Borough.
- (2) No action shall be taken on any application for a permit under this section until the application has been completed in its entirety and the application fee has been paid in full.

D. Indemnification of the Borough; insurance. The applicant/property owner shall well and truly save, indemnify, defend, and keep harmless the Borough of Oxford, its officers, employees, and agents from and against any and all actions, suits, demands, payments, costs, and charges for and by reason of the existence of the outdoor café and all damages to persons or property resulting from or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement, or removal of such outdoor café or by the acts or omissions of the employees or agents of the applicant in connection with such outdoor café. The applicant/property owner must obtain and maintain an insurance policy which covers general liability in the area of the outdoor café which is within the public right-of-way which names the Borough of Oxford as an additional insured. Proof that such insurance remains in force during the continuing operation of the outdoor café shall be provided as part of the annual permit renewal.

E. Specific standards. The following regulations shall apply to outdoor cafés:

- (1) There shall be a minimum 4-foot wide sidewalk corridor that shall remain free and clear of any tables and chairs associated with the outdoor café and that shall provide for unobstructed passage of pedestrians and persons in wheelchairs. This corridor shall connect directly with similar corridors on adjacent properties to the maximum extent feasible.
- (2) The minimum height of umbrellas which project into the required minimum pedestrian walkway shall be 80 inches.
- (3) Tables which are placed on the sidewalk to be utilized as part of the outdoor café shall not exceed 13 square feet in area.
- (4) Staffing of outdoor café location.
 - (a) Where alcoholic beverages³ are being sold to and consumed by patrons of the outdoor café, the outdoor café shall employ staff to be situated in the outdoor café location for purposes of preventing open containers of alcohol from being transported off the property, preventing underage consumption of alcohol, and preventing intoxication of patrons.
 - (b) Adequate personnel shall be specifically assigned to the outdoor café area to remove all leftover food items, containers, cups, dishes, eating utensils, etc. upon departure of the patron.
- (5) There shall be no temporary signs or banners permitted within the area devoted to an outdoor café.
- (6) The owner of an outdoor café is responsible for keeping the entire outdoor café space, including the required pedestrian walkway, clean and free of trash

and debris at all times.

- (7) Hours of operation.
 - (a) Outdoor café associated with a restaurant. The outdoor café must stop seating newly-arriving patrons by or before 10 p.m. prevailing time and must clear all tables of food and beverages by or before 11:00 p.m. prevailing time. All patrons must exit the outdoor café by 11:15 p.m. prevailing time.
 - (b) Outdoor café not associated with a restaurant. The outdoor café shall declare a “last call” for food and beverages no later than 10:45 p.m. prevailing time. All patrons must exit the outdoor café by 11:15 p.m. prevailing time.
 - (c) No outdoor café shall open for business prior to 6:00 a.m. on any day of the week.
- (8) The owner of an outdoor café shall be responsible for the conduct of patrons. Behavior that is deemed to be disorderly conduct, as prescribed in Chapter 6, Conduct, of the Code of the Borough of Oxford, shall be subject to enforcement by the Borough of Oxford.
- (9) Service to and conduct of patrons.
 - (a) Outdoor café associated with a restaurant.
 - (1) Where the restaurant serves alcoholic beverages, the outdoor café must provide table service. All food and beverages served to patrons shall be prepared on the premises for service to the tables and consumed at tables.
 - (2) Where the restaurant does not serve alcoholic beverages, table service to outdoor café patrons is not required. Food and beverages provided to outdoor café patrons shall be prepared on the premises for consumption at tables.
 - (3) The maximum number of patrons within the outdoor café area shall not exceed the maximum seating capacity of the outdoor café at any given time. No individuals without seats shall be permitted to stand or congregate in or adjacent to an outdoor café.
 - (b) Outdoor café not associated with a restaurant.
 - (1) Patrons are not required to be seated at tables. Beverages shall be provided by the permittee. Food may be obtained by patrons off-site and brought to the outdoor café for consumption.
 - (2) The maximum number of patrons within the outdoor café area at any given time shall not exceed the maximum capacity stipulated by the terms of the outdoor café permit.
- (10) The owner of an outdoor café must provide trash receptacles, acceptable to the Borough of Oxford, which are located at the exterior of the premises.
- (11) Music is permitted as an element of an outdoor café use, but shall not present a noise disturbance to adjacent properties or beyond. All activities associated with the operation of an outdoor café shall comply with the terms of Chapter 6, Conduct, and Chapter 10, Health and Safety, of the Code of the Borough of Oxford.
- (12) The permittee shall maintain the outdoor café in accordance with all Borough ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to the use of outdoor

cafés. All applicable requirements of the Pennsylvania Liquor Control Board shall be strictly complied with by the permittee.

(13) Notice for removal.

- (a) The owner shall remove the outdoor café within 30 days after written notice by the Borough if the Borough determines that the outdoor café is detrimental to the health, safety, and general welfare of the Borough or its citizens because one or more of the following conditions has occurred:
- (1) Due to pedestrian traffic changes, the outdoor café narrows the sidewalk to the extent that pedestrian traffic is impeded.
 - (2) The outdoor café interferes with the maintenance or installation of an underground utility structure.
 - (3) The outdoor café is no longer being used as such.
 - (4) The outdoor café has been temporarily or permanently closed for violation of any Borough, state, or federal law and/or regulation.
 - (5) The outdoor café is operated in violation of any ordinance, rule, or regulation of the Borough of Cxford.
- (b) In the event that the owner fails to remove the outdoor café within 30 days after written notice, the Borough may proceed to remove and restore the area and charge the owner for the cost thereof. Should the outdoor café be removed by the Borough, the owner shall be entitled to a return of the equipment, furnishings, or appurtenances so removed only after the payment of all costs due to the Borough and by requesting the return in writing. The responsibility for removal under the provisions of this subsection shall be solely that of the owner without any obligation or cost assessed against the Borough.

(14) The Code Enforcement Officer may approve the erection of a railing or fence in the sidewalk right-of-way as part of the permit for an outdoor café subject to the following criteria:

- (a) All railings shall be constructed of wrought iron, anodized cast aluminum, or similar material. Design and color shall be as deemed acceptable by the Code Enforcement Officer and shall be selected to maintain maximum consistency of the streetscape within the C-3 District.
- (b) Railings must be installed with removable sections and must demonstrate sufficient stability without causing damage to the sidewalk surface.
- (c) The design of the railing shall not include sharp points on top of the rails.
- (d) The height of the railing shall be a minimum of 30 inches and a maximum of 45 inches above the sidewalk grade.

(15) Any establishment that is permitted to operate an outdoor café on the premises shall post a copy of this section and any amendments thereto, within the establishment for inspection by any interested party.

F. Additional rules and regulations. The Borough may, from time to time, promulgate whatever rules or regulations it deems necessary or desirable to effectuate the purposes of this chapter, and is permitted to do so by ordinance or resolution and the same shall be approved by the Borough.

3. Other Uses Prohibited on Public Sidewalks. Except as expressly permitted by the provisions of §§27-1330(1) and 27-1330(2) or other provisions of the Borough's Zoning

Ordinance, no commercial use may, for commercial purposes, utilize the public sidewalk associated with the property on which it operates.

SECTION 3. Chapter 21, Streets and Sidewalks, Part 4, Obstructions and Encroachments, §21-406, Storage and Display of Merchandise on Sidewalks, shall be deleted in its entirety.

SECTION 4. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

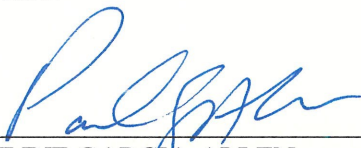
SECTION 6. This amendment shall be effective 5 days following adoption, as by law provided.

ENACTED AND ORDAINED this 21st day of November, 2023.

OXFORD BOROUGH COUNCIL

By: 
KATHRYN CLOYD, President

ATTEST:


PAULINE GARCIA-ALLEN,
Borough Secretary

APPROVED THIS 21 DAY OF November, 2023.


PHILIP HARRIS, Mayor

