

**BERNARDSVILLE BOROUGH  
ORDINANCE #2023-1965**

**REQUIRING OUTDOOR DINING FACILITIES TO FILE A CERTIFICATE OF  
INSURANCE AND AN INDEMNIFICATION AGREEMENT  
WITH THE BOROUGH CLERK**

WHEREAS, § L.D.-12-12.9 of the Borough Land Development Regulations permits outdoor dining on public sidewalks within the downtown district as accessory to an existing indoor restaurant; and

WHEREAS, the Housing/Property Maintenance/Zoning Compliance Advisory Committee (“Housing Committee”) has recommended that the owners of outdoor dining facilities in the public right-of-way be required to file a certificate of insurance with the Borough Clerk and to execute an indemnification agreement to protect the Borough against any claims arising out of their operation of the outdoor dining facility; and

WHEREAS, the governing body agrees with the Housing Committee’s recommendation;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that there is hereby created a new Chapter 28 of the Borough Code Entitled “Outdoor Dining - Insurance and Indemnification” as follows:

**“Chapter 28 - Outdoor Dining - Insurance and Indemnification**

**Section 28-1.** No business with outdoor dining on a sidewalk over which the public has a right of way in compliance with Section L.D.-12-12.9 of the Borough Land Use Ordinance shall operate that outdoor dining facility unless it shall have first filed with the Borough Clerk a Certificate of Insurance, issued by a company duly licensed to transact business under the laws of this State, providing for the payment of not less than \$1,000,000 to satisfy all claims for damages by reason of bodily injuries to, or the death of, any person as a direct result of the operation of the outdoor dining facility or for injury to any person occurring on the premises occupied by such outdoor dining facility and further providing for the payment of not less than \$10,000 to satisfy all claims for property damage occurring as the direct or indirect result of the operation of such outdoor dining facility. All such Certificates of Insurance shall name the Borough of Bernardsville as an additional insured.

**Section 28-2. Indemnification Agreement Required.**

No business with outdoor dining on a sidewalk over which the public has a right of way in compliance with Section L.D.-12-12.9 of the Borough Land Use Ordinance shall operate that outdoor dining facility unless it shall have first executed with the Borough Clerk an indemnification agreement pursuant to which the business entity shall agree to forever defend, protect, indemnify and hold harmless the Borough of Bernardsville, 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 business' operation of such an outdoor dining facility.”

**Section 2.** Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 3.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall become effective immediately upon final passage and publication as required by law.

COUNCIL OF THE BOROUGH OF  
BERNARDSVILLE IN THE COUNTY  
OF SOMERSET

ATTEST:

Anthony Suriano  
Anthony Suriano, Borough Clerk

By: Mary Jane Canose  
Mary Jane Canose, Mayor

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