

**ORDINANCE OF THE BOROUGH OF WEST PITTSTON
REGULATING THE USE OF THE PUBLIC RIGHT-OF-WAY**

SECTION I-OBSTRUCTION PERMIT REQUIRED.

Prior to any person placing an obstruction in the public right-of-way, a permit must first be obtained from the Code Enforcement Officer of the Borough of West Pittston ("the Borough")

SECTION II - STANDARD OF PERMIT ISSUANCE.

The Borough's Code Enforcement Officer ("CEO") shall not issue any permit when any obstruction involved will unnecessarily interfere with the flow of traffic, cause a dangerous traffic condition, or if it is found by the CEO to be detrimental to the health, welfare or safety of Borough residents.

- (a) By accepting a permit, the applicant agrees, where applicable:
- (1) To remove or relocate at its own expense all installations from the public street, sidewalk or other public way upon five (5) days' written notice from the Borough requesting the removal; and
 - (2) To not hold the Borough liable for removal or relocation and to indemnify it for any costs incurred as a result of removal or relocation; and
 - (3) To provide notice to the abutting and adjoining property owners of the pending placement of any obstruction(s) unless under emergency conditions, in which case a reasonable attempt shall be made to notify abutting and adjoining property owners and/or tenants prior to the installation of the obstructions;
 - (4) To restore the right-of-way upon completion of the construction-related activity to specifications set forth by the CEO;
 - (5) To accompany a sidewalk closure with warning signage at the nearest crosswalk indicating the closure. Failure to maintain appropriate signage shall result in a fine per day as outlined in the Department's publicly posted Right-of-Way Fee Schedule, in addition to any additional penalties found in Section 416.23.
 - (6) To remove existing encroachments that do not meet the terms, conditions and provisions of this Ordinance.

SECTION III- CERTIFICATE OF INSURANCE.

An applicant shall procure and maintain insurance in the forms, types, and amounts prescribed by the Borough Solicitor for the duration of the obstruction permitted activity. Certificate of insurance requirements shall be applicable to the permitted activity. In no event will the amount of coverage required for any activity requiring a permit be less than five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate, in order to protect the Borough against claims of third persons for personal injury, wrongful death and property damage and to indemnify the Borough for damage to Borough property arising out of the applicant's activities.

The certificate must name the Borough as additional insured on the certificate. Applicant, if applicable, shall also submit verification that adequate worker's compensation insurance coverage is maintained throughout permitted activity's term.

SECTION IV - CONSTRUCTION MITIGATION PLAN REQUIRED.

When an application for any construction related obstruction permit is submitted, it shall be accompanied by an Impact Mitigation Plan ("IMP"). The approved plan shall consist of both Borough developed and applicant-proposed measures for reducing construction impacts on neighbors and the community.

An IMP shall include, if applicable, but not be limited to:

- (1) A site plan and complementary drawings which identify: the location of all proposed and existing structures; the location of proposed and existing improvements; existing site conditions such as topography and trees;
- (2) Screening or fencing of the construction site;
- (3) Temporary or permanent fences or walls;
- (4) Implementation of noise-reduction methods;
- (5) Off-site parking areas for construction personnel;
- (6) Use of buses or vans to transport construction personnel to/from off-site parking;
- (7) Location for staging vehicles, loading/off-loading equipment, and receiving deliveries;
- (8) Implementation of air pollution reduction methods, such as dust control, use of clean fuels, retrofitting equipment to provide additional emissions control as required by Borough, State or Federal laws;
- (9) Restricted work hours for unusually disruptive activities;

- (10) Soil export and regulation of truck and equipment traffic routes and hours of transport;
- (11) Requirements for meetings, notices and/or other methods of communicating with neighboring property owners;
- (12) Restoration of Borough streets and rights-of-way to include cleaning and repair of structural damage within forty-eight (48) hours;
- (13) Use of specific equipment or construction methods and practices to reduce impacts to property, trees, and/or environmental critical areas.
- (14) Location of towers or other types of cranes which illustrates swing radius.

**SECTION V - STREET OBSTRUCTION PERMIT FOR
SEVENTEEN (17) DAYS OR LESS.**

Any temporary construction activity or related vehicle, equipment, fence, or other object that is placed, installed or erected in or upon a roadway or sidewalk that would in any manner prevent or restrict public use of or access to a public right-of-way for a period of seventeen (17) consecutive days or less, and does not meet the criteria of a major street obstruction, shall secure a permit from the CEO. The applicant, with advice from the CEO and other appropriate departments, authorities and/or agencies, shall devise an IMP to mitigate impacts.

**SECTION VI- MAJOR STREET OBSTRUCTIONS FOR
EIGHTEEN (18) DAYS OR MORE; PERMIT REQUIRED.**

Any temporary construction activity that results in a full road closure, a single lane closure, or the elimination of a significant number of on-street parking spaces, as determined by the CEO, for a period of eighteen (18) consecutive days or more is deemed to be a major construction-related project. A permit shall be secured from the CEO.

SECTION VII - PUBLIC NOTICE; MAJOR STREET OBSTRUCTION.

Set forth below is the process to notify the public of a major street obstruction permit. A permit shall not be issued by the CEO until the proper notification process is complete.

- (A) Applicant shall first provide written notice to the Borough Council;
- (B) At least ten (10) days prior to the start of the major street obstruction, the applicant shall post placards, visible from the public right-of-way, which provide information about the pending obstruction, including:
 - (1) The portion of the roadway that will be closed;
 - (2) The duration of the obstruction;
 - (3) The applicant's contact information;
- (C) Placards shall be placed every fifty (50) feet along the obstruction site. Applicant must provide proof that placards were placed along the obstruction site before receiving the permit;
- (D) Prior to the issuance of a major street obstruction permit, the CEO shall provide written notice to the Borough to be read, received, and filed by Borough Council as a communication. The notice shall include:
 - (1) Name and address of the permit applicant;
 - (2) Location and purpose for the major street obstruction;
 - (3) Anticipated date and term of the major street obstruction;
- (E) Once the major street obstruction permit is issued, it is valid for a period of time not to exceed six (6) months from the date of approval. If project work related to the major street obstruction does not commence within six (6) months, the permit shall expire. If work does commence within six (6) months, the permit may be renewed in six-month increments until work is complete after submission of the required renewal fee.

SECTION VIII - EXCLUSIONS.

The provisions of this Ordinance shall not apply in the event of an emergency, or to any construction project in the public right-of-way by a utility which provides electricity to the Borough, natural gas, water and/or wastewater, or telecommunication services to the public.

**SECTION IX - PERMIT FEES FOR
CONSTRUCTION-RELATED STREET OBSTRUCTIONS.**

- A. Prior to the issuance of any permit, the applicant must pay any and all applicable fees as outlined in the Borough's publicly posted Right-of-Way Fee Schedule.
- B. For permits with fees tied to dimensions, all measurements shall be rounded up to the nearest whole number, and payment shall be made on this basis.

SECTION X - PUBLIC RIGHT-OF-WAY ENCROACHMENTS.

- A. The purpose of this Section is to regulate the placement of any structures, obstructions, impediments, personal property, removable property within or upon any public right-of-way or public easement and to establish standards and procedures for the vacation of any public easement or public right-of-way, in order to assure adequate and safe public access to the streets, appropriate utilization of public easements, and for the just disposition of property determined to be unnecessary to meet public needs.
- B. Encroachment for purposes of this Section, means a private improvement, structure, personal property, removable property or obstruction extending into or located within, upon or under any public right-of-way or public easement. Structure means anything constructed or erected within a fixed location below, on or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, balconies and canopies.
- C. Obstruction for the purpose of this Section includes, without limitation:
 - (1) A fence, hedge or wall placed nearer than permitted to any public sidewalk or path;
 - (2) Any landscaping, structure or fence within the corner sight lines of an intersection that obstructs a vehicle operator's vision or, within its prolongation, within the right-of-way;
 - (3) A tree or bush or other plant or a structure of any sort which projects beyond the property line of property abutting the right-of-way of any street, sidewalk, path or alley onto or over the public right-of-way and obstructs the view of traffic, obscures any traffic control device, prevents pedestrian use of any part of a street, sidewalk, path or alley, or otherwise constitutes a hazard to drivers or pedestrians. Without limitation, a dead bough of a tree located on a person's property but overhanging public property constitutes such a hazard;
 - (4) Cement, concrete, piping or other material placed in a gutter to aid vehicles in driving over a curb or for any other purpose.

- (5) Tables.
 - (6) Chairs.
 - (7) Portable signs.
- (D) Application therefore shall clearly indicate the purpose and proposed use of the encroachment, shall include a plan identifying the portion of the right-of-way in which the encroachment is requested, and shall include other information as may be required by the CEO to demonstrate compliance with all applicable code regulations and with requirements for encroachments established by the CEO.
- (E) Reserved.
- (F) The CEO shall notify the Borough Manager of the approval by Council of the resolution authorizing the encroachment permit. However, the CEO shall not issue the permit until the applicant has paid the applicable fee, obtained all applicable zoning approvals, submitted proof of insurance in coverage's and amounts as determined by the Borough Solicitor, and supply such other information as may be required and approved by the CEO.

SECTION XI-SIDEWALK AND STREET BANNERS.

The CEO shall promulgate regulations governing size and construction of street and sidewalk banners and, the application process to place said banners.

Prior to institution of any additional regulation governing street or sidewalk banners the CEO shall inform the public and Borough Council, in writing, of said regulations.

The CEO shall consult with and abide by any legal requirements set forth by the Borough Council.

SECTION XII - LIMITED DURATION STREET AND/OR SIDEWALK BANNERS.

To support public awareness of significant Borough-wide and neighborhood events, such as non-religious holidays, vehicle and/or pedestrian races, visiting dignitaries, and other non-political, not-for-profit sponsored events, promoting the Borough and the wellbeing of its citizens, the CEO may temporarily permit street and sidewalk banners as follows:

“Over-Street Banners” shall conform to the following requirements:

- 20 feet above the roadway with the bottom of the banner being no less than 9' above the roadway.
- Securely fastened with grommets every 24 inches
- 400 lb. tensile strength cord/rope

- Wind Slits every 3-5 feet;
- Weather/UV/Mold/Mildew resistant material, such as marine acrylic canvas or reinforced vinyl;
- Maximum size of 24'x3' (banner may be double sided)
- Mounting Hardware: Corrosion resistant material; posts are not to be drilled or welded.

For "sidewalk pole banners":

- 9 ft. pedestrian clearance above grade or sidewalk as measured from the bottom of the banner;
- Double-stitched hems
- Weather/UV/Mold/Mildew resistant material, such as marine acrylic canvas or reinforced vinyl;
- Maximum Size 2-8 sq. ft. (Banner may be double-sided)
- Mounting Hardware: Corrosion resistant material; posts are not to be drilled or welded.

Banners shall be hung with the CEO's approval and in compliance with all appropriate regulations for the duration of the above-mentioned events and subject to the following conditions:

- (A) The limited duration permit for sidewalk pole banners shall be issued by the Borough Council.
- (B) Specific placement of pole and street locations shall be designated on the limited duration banner permit and shall not exceed ten (10) banners. A list of these locations shall be available at the Borough.
- (C) Limited duration applicants shall be required to hang and remove all banners. Banners not removed by the applicant may be subject to removal by the Borough. All costs associated with cleanup and removal shall be assessed to the limited duration banner applicant.
- (D) Banners or poles or supports may not be attached to utility poles.

The sidewalk banners shall conform in size and construction requirements with banner regulations promulgated by the CEO, including, but not limited to, requirements for hanging banners in order to protect the public's safety.

The banners may include announcements of the above-mentioned events and may include commercial sponsor logos to the extent that advertising comprises no more than thirty-three (33) percent of the banner face.

Banners shall not be erected more than five (5) days prior to the event and shall be removed within five (5) days of the event. The CEO may grant an extension of time for removal in the case of inclement weather or other events that reasonably delay removal.

The permit fee for each banner permitted shall be found in the Borough's Right-of-Way Fee Schedule. The Borough shall waive the banner fee for any U.S. or official government flag placed in the public right-of-way.

Any additional hardware required to hang the banner is the responsibility of the applicant. Any hardware or other fixtures required to hang banners shall be the responsibility of the applicant and shall be approved by the CEO prior to installation.

Only with advance permission of the CEO shall the applicant leave banner-hanging hardware in place for the permanent use of the Borough.

SECTION XIII - EXTENSION OF PREMISES.

The Borough Council shall issue regulations and set permit fees governing the extension of premises for purposes including, but not limited to, sidewalk cafes, outdoor cooking and other related food services, and the setting out of furniture on the sidewalk and cart ways of the Borough.

SECTION XIV - NEIGHBORHOOD BLOCK PARTIES.

Neighborhood block party events are welcomed and encouraged by the Borough of Pittsburgh as they promote the health and wellbeing of Borough residents. The CEO shall promulgate regulations and set permit fees for the closure of portions of the public right-of-way for neighborhood block parties. Fees for block parties shall be maintained at affordable rates and need not be calculated to recover actual costs to the Borough.

SECTION XV – CANOPIES, OR PROJECTED SIGNS, AWNINGS BALCONIES.

Any canopy, projected sign, awning, or other building fixtures and/or portions of a structure that projects into the public right-of-way shall be governed by the provisions of the Borough's Zoning Code of Ordinance. Prior to the issuance of any permit, the applicant must pay any and all applicable fees as outlined in the Borough's publicly posted Right-of-Way Fee Schedule. Supporting structures must be a minimum 9 feet above sidewalk

SECTION XVI-SIDEWALK CAFÉS (DEFINITION).

(a) A sidewalk café is defined as an extension of the services of an existing establishment, including but not limited to, serving food and beverages for consumption within an existing building, to the extent that food and beverages are permitted to be served and consumed at tables placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the establishment is situated. A sidewalk café contains readily removable tables and chairs, is enclosed by rope and stanchion, unless some other barrier system is approved by the Borough as an architectural design element, and shall be otherwise open to the air.

(b) The sidewalk café shall be located on the public right-of-way adjoining the property owner's property and in a location where it shall be determined to be appropriate by this Chapter, and all applicable related ordinances.

SECTION XVII
APPROVAL PROCESS FOR SIDEWALK CAFE,
INCLUDING PERMITS AND FEES.

I. A proprietor wishing to establish a sidewalk café must follow the process described below. Responsibilities of the CEO include, but are not limited to, those described. For expediency and to benefit the applicant, the CEO shall complete his or her responsibilities within ten (10) days.

- a. The proprietor obtains an application form for a permit from the CEO to encroach on the public right-of-way with a sidewalk café. A checklist of sidewalk café requirements, delineating the steps to be followed in acquiring a sidewalk café permit, is issued to the applicant based on if for more than four (4) seats.
- b. Applicant returns to the CEO with a completed application. As part of the application for a sidewalk café, applicant shall submit a site plan which must be attached to the required permit application. The permit fee is due at this time at the cost outlined in the Borough's Right-of-Way Fee Schedule. Also due at this time is a certificate from the proprietor's insurance company, naming the Borough as additional insured. The CEO, in consultation with the Borough Solicitor, shall set the type and coverage of insurance required. In determining the insurance requirements, the CEO shall take into consideration factors including, but not limited to, the type of permit, the scope of the project, the risk to the Borough and to the general public, as well as other salient factors. The CEO issues a printed notice that the application has been accepted but not approved.
- c. The CEO sends the applicant to the Borough's Zoning Officer with the application and with the CEO's notice of acceptance. The application is registered and the applicant pays a one-time filing fee at the Zoning Office. Zoning will verify that the applicant has a valid certificate of occupancy for the primary use of the property. A certificate of occupancy for a sidewalk café will not be granted without a valid certificate of occupancy for the primary use. Zoning reviews the site plan design of the proposed sidewalk café. If disapproved, the applicant is given an opportunity to revise the site plan to meet Zoning's requirements. If the proposed sidewalk café is to be in an historic district, there will be an additional level of review by the local body that provides historic review for that site. Zoning marks the site plan as approved and directs the applicant to the CEO.
- d. Any violations must be rectified before a sidewalk café permit can be issued. No permit can be issued unless the proprietor has a valid occupancy permit for the establishment that the sidewalk café will abut. Upon being cleared of violations and consistent with the requirement for

commercial venues, the applicant must submit a site plan, prepared and sealed by a licensed architect or engineer if required by the CEO. This plan must contain the sidewalk café seating layout, aisles, enclosure, ADA requirements, and means of egress, including egress from the main restaurant to the curb. The CEO will review the site plan for compliance with Borough Code and for compliance with the Americans with Disabilities Act (ADA). The applicant then pays a onetime fee for the certificate of occupancy for a sidewalk café. The CEO will inspect and issue the certificate of occupancy for a sidewalk café, if approved. A copy of the site plan will be given to the applicant to be maintained at the establishment. The applicant will receive a copy of the certificate of occupancy by mail. Upon completion of CEO's process, the CEO will forward the sidewalk café application packet, including notice of acceptance, the certified site plan, and a copy of the certificate of occupancy for a sidewalk café.

(1) If an applicant possesses outstanding citations issued by the Borough, any other governmental agency or entity or under this Chapter and related to the premises for which the application is submitted, a permit will not be issued.

- e. The CEO conducts a field survey to check the accuracy of information submitted in the proprietor's application for a sidewalk café.
- f. The CEO notifies the applicant of the CEO's decision. If approved, the sidewalk café permit is issued by the CEO. The CEO demarcates the margins of the approved sidewalk café on the sidewalk.

If the proprietor wishes to change the sidewalk café from the approved site plan, a new application and review process is required.

SECTION XVIII - SIDEWALK CAFE SITE PLAN.

In furtherance of the intent of this legislation that sidewalk cafes shall enhance the aesthetic appeal and community activity where they are located, especially in historic business districts, the following requirements are placed on the design and operation of sidewalk cafes:

- 1. Site plans shall include:
 - (a) Size of encroachment onto publicly owned sidewalk,
 - (b) Sidewalks up to ten (10) feet in width shall leave four (4) feet of sidewalk clear of obstructions to allow unimpeded pedestrian and disabled pedestrian traffic, in accordance with Americans with Disability Act (ADA) standards. Sidewalks over ten (10) feet in width shall leave five (5) feet of sidewalk clear of obstructions to allow unimpeded pedestrian and disabled pedestrian traffic, in

accordance with the Code of Ordinances and Americans with Disability Act (ADA) standards. No obstruction shall be placed within eighteen (18) inches of the face of any curb, within five (5) feet of any fire exit, fire hydrant, or building corner.

- (c) A sidewalk cafe is limited to the width of the storefront of the establishment with which the area is associated. The area of ingress and egress is to be shown.
- (d) Hours of operation. Operation shall be during the normal business hours of the applicant, but no earlier than 10:00 a.m. and no later than 10:00 p.m.
- (e) Gross square footage.
- (f) Compliance with Federal accessibility standards, to accommodate persons with disabilities.
- (g) Compliance with building code and Americans with Disabilities Act standards for egress from the cafe and from the establishment.
- (h) Borough and other approved obstructions are shown outside the required ADA clear passageway. Obstructions shall include, but not be limited to, light poles, traffic signal poles, fire hydrants, utility structures, bike racks, parking meters, street trees, and street signs. Further, the sidewalk cafe cannot obstruct the clear sight distance for vehicles or access or crossings for the disabled.
- (i) The seating, table layout, and barrier system, to scale, along with passageway/aisle clearances.

2. Design aspects to be included in the site plan are:

- (a) Sidewalk cafes shall have a rope and stanchion as an enclosure, unless some other barrier system is approved by the Borough as an architectural design element.
- (b) Sidewalk cafes are comprised of tables for dining. There shall be no standing room. No service equipment is permitted.
- (c) Furnishings for sidewalk cafes shall consist solely of moveable tables, chairs, and decorative accessories. There shall be at least one (1) table that is ADA compliant.

- (d) The square footage of the sidewalk cafe area shall determine the number of permitted tables and chairs based on the building code requirements in effect at the time of the initial application. The proprietor is also required to update sidewalk cafe seating to meet building code requirements in effect at the time of annual renewal.
- (e) If awnings are proposed, they shall be adequately secured and retractable. If umbrellas are proposed, they are to be included in the submitted site plan, and must meet ADA standards for encroachment into the public right-of-way, that is, umbrellas must be totally within the sidewalk cafe area and the edges and prongs must leave the path of travel clear and unobstructed.
- (f) Sidewalk cafes shall be at the same elevation as the public sidewalk. Paint, carpeting, artificial turf, or other floor coverings of any kind shall not be permitted at any time in the sidewalk cafe area.
- (g) No signage shall be allowed in any sidewalk cafe, or on the adjacent sidewalk, with the exception that small, lighted menu boards may be permitted.
- (h) Sidewalk cafe uses shall be subject to Borough Zoning Code standards, as stated in the Borough's Zoning Ordinance.

3. General requirements.

- (a) A permit to operate a sidewalk cafe shall only be granted to an establishment with a valid retail food license.

4. Operation.

- (a) Operation shall be during the normal business hours of the applicant, but no earlier than 7:00 a.m. and no later than 2:00 a.m.
- (b) Furnishings must be kept in a state of good repair and in a clean and safe condition at all times.
- (c) Where rope and stanchion is used as the barrier, furnishings and rope and stanchion must be off the sidewalk by close of business, but no later than 2:00 a.m. each evening. Rope and stanchion must also be removed at that time.
- (d) Sidewalk cafe permits are not transferable.

- (e) Applicants are bound by all applicable rules for alcohol and tobacco consumption, including State statutes and Borough ordinances.
- (f) The sidewalk surface in the sidewalk cafe area shall be maintained in good repair.
- (g) Busing stations, trash receptacles, food preparation stations, cashier stations, and music shall not be permitted in the sidewalk cafe.
- (h) Sanitary cleaning of the sidewalk cafe dining area before, during, and after food service is required.
- (i) The proprietor shall maintain on-site copies of both the certificate of occupancy for a sidewalk cafe and the certified site plan. Both shall be presented on request from an enforcement official from the CEO, or other authorized representative of the Borough. The sidewalk cafe permit shall be displayed in the front window, clearly visible from the street.
- (j) The applicant shall be responsible for keeping all visitors, patrons, employees, and cafe fixtures, including, without limitation, tables and chairs, from occupying or encroaching into the required clear sidewalk space.

SECTION XIX - SIDEWALK CAFE PERMIT ANNUAL RENEWAL.

- (a) Permits are good for one year from issuance and are renewable annually upon approval by the Borough.
- (b) If an applicant possesses outstanding citations issued and related to the premises for which the renewal is submitted, a renewal will not be issued.

SECTION XX-PERMIT REVOCATION AND PENALTIES.

- (a) Any person who violates any of the provisions of this Article or regulations promulgated hereunder shall be subject to a fine for each offense as outlined in the Borough's publicly posted Right-of-Way Fee Schedule, and each day such a violation continues shall be deemed a separate and distinct offense. The CEO and the Borough's Police provide enforcement if the applicant violates the terms of the permit.
- (b) Any sidewalk cafe or other business activity, including signage, on publicly owned sidewalk in front of a business establishment without a valid permit is subject to removal from the public way by the Borough.

- (c) In addition to fines and other penalties as provided for herein, three (3) or more violations of any provision of this Article or regulations promulgated hereunder within a permit period shall subject the applicant to revocation of the sidewalk cafe permit.

SECTION XXI
EXTENSION OF PREMISES FOR OUTDOOR COOKING AND
OTHER RELATED FOOD SERVICES.

- (A) An establishment including, but not limited to, a restaurant, grocery store, café, or deli shall apply for a permit to use the public sidewalk for the purpose of outdoor cooking and other related food services. Outdoor cooking includes, but is not limited to, outdoor grilling. Related food services include selling, sampling, and displaying food cooked and/or prepared outside of the business premises.
- (B) Tables and chairs require a separate sidewalk café permit.
- (C) Permit required. No business shall extend its business premise onto the public sidewalk for the purpose of outdoor cooking and other related food services without first obtaining a permit from the Borough. The permit shall be prominently displayed in a location visible from the right-of-way.
- (D) Permit fee. Prior to the issuance of any permit to extend the premises for cooking and other related food services, the applicant must pay any and all applicable fees as outlined in the Borough 's publicly posted Right-of-Way Fee Schedule.
- (E) Information required for Borough approval. The following information is required to be provided to the CEO prior to issuance of a permit:
 - (1) A description of the nature of the business.
 - (2) The name, address, and phone number of the business.
 - (3) Contact information of the proprietor including email address and cell telephone number.
 - (4) Daily and weekly hours of operation.
 - (5) An insurance certificate from the proprietor's insurance company, naming the Borough as additional insured. The CEO, in consultation with the Borough Solicitor, shall set the type and coverage of insurance required. In determining the insurance

requirements, the CEO shall take into consideration factors including, but not limited to, the type of permit, the scope of the project, the risk to the Borough and to the general public, as well as other salient factors. The applicant shall further provide that the policy shall not terminate or be cancelled prior to the expiration date of the permit without thirty (30) days' written notice to the CEO.

- (6) A notarized consent form from the abutting building owners left and/or right of the building housing the permitted business.

F. Speaking Devices, Loud Noises, Signs, Goods, Smoke and Strong Odors.

- (1) No business, nor any person on their behalf, shall blow a horn, or use any other device, except ring a bell, including any loud speaking radio or sound amplifying system upon any of the streets of the Borough or upon any private premise in the Borough where sound or sufficient volume is emitted or produced therefrom to be capable of being plainly heard on the streets, alleys, parks, or other public spaces, for the purpose of attracting attention to any goods, wares, or merchandise which the business proposes to sell.
- (2) No employee, or other individual on behalf of the business while on the sidewalk or public right-of-way, shall create excessive smoke or strong odors through the preparation of goods that are cooked outdoors.

(G) Permitted locations.

- a. Prior to the business obtaining a permit, the CEO shall review the application for safety and appropriate use of public space.
- b. The CEO shall compile a list of permitted locations where the presence of cooking and food service on the sidewalk are approved. The CEO may consider the width of the sidewalk; the proximity and location of existing street furniture including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, and newspaper vending devices; the presence of bus stops, truck loading zones, and taxi stands; pedestrian and vehicular traffic patterns; and other factors he/she deems relevant. The CEO may modify the list when necessary.

(H) Permit application and duration. Permits shall be valid for a period of one (1) year and may be renewed prior to expiration upon the payment of

the permit fee, provided all the requirements of this Chapter are met. The annual permit runs from January through December, at which time the proprietor is required to pay the annual permit fee as outlined in the Borough's publicly posted Right-of-Way Fee Schedule. The annual permit fee shall not be pro-rated if obtained after the first of the year.

- (I) Use of public space.
 - a. No merchant shall use the sidewalk to the extent that there is not a free and clear passage less than five (5) feet wide.
 - b. In order to maintain a clear passage of at least five (5) feet wide on the sidewalk, all cookware, equipment, and other items owned by the business stationed on the public sidewalk should be contained and not interfere in any way with the five (5) feet wide area.
 - c. If the business intends to use the public space for outdoor seating in addition to cooking purposes, a new and separate sidewalk cafe application must be submitted in accordance with all Borough zoning guidelines for the business' location and all appropriate permits from the Borough.
 - d. The merchant's outdoor equipment and set-up must also include a sanitary receptacle for purposes of controlling the waste generated from the cooking
 - e. Businesses are not allowed to use or block in any way metered parking, other restricted parking zones, and unloading zones.
 - f. Space must adhere to all ADA standards.
- (J) Hours of operation. Operation shall be during the normal business hours of the applicant, but no earlier than 10:00 a.m. and no later than 10:00 p.m.
- (K) Approval process.
 - (1) When it is deemed that the application is completed fully and correctly, the CEO submits the application to the Borough Council. The Borough Council shall, in writing, approve or recommend that the application be forwarded to a formal session of Borough Council to be discussed by all members.
 - (2) All other applicable certificates of approval, and a certificate of approval from the Borough and jurisdictional Health official must be obtained before operations can commence.

- (3) If an applicant possesses outstanding citations issued by the Borough, any other governmental agency or entity or under this Chapter and related to the premises for which the application is submitted, a permit will not be issued.

(L) Permit revocation and penalties.

- (1) Any person who violates any of the provisions of this Article or regulations promulgated hereunder shall be subject to a fine for each offense as outlined in the Borough's publicly posted Right-of-Way Fee Schedule, and each day such a violation continues shall be deemed a separate and distinct offense. The CEO and the Borough's Police shall provide enforcement if the applicant violates the terms of the permit. Three (3) or more violations of any provision of this Article or regulations promulgated hereunder within a permit period shall subject the applicant to revocation of the permit.
- (2) Any outdoor cooking on public space including, but not limited to, the sidewalk in front of a business establishment without all valid permits and certificates is subject to immediate removal from the public way by the CEO and the Borough's police.

SECTION XXII - COVERED WALKWAYS.

- (a) If a permit application seeks closure of a sidewalk that will extend beyond thirty (30) days, the applicant shall erect a covered walkway over the sidewalk. If a covered walkway is not feasible, the permit application must be accompanied by an analysis prepared by an engineer licensed by the Commonwealth of Pennsylvania concluding that a covered walkway is not practicable in the circumstances. The CEO, or his or her designee, shall consider such analysis before making a written determination.
- (b) All covered walkways, as referenced in this section, shall be in compliance with Chapter 33 of the International Building Code, or otherwise meet the definition of a "covered walkway" found within the most recent version of that code.

SECTION XXIII - OUTSTANDING CITATIONS.

For the purposes of this Chapter, "outstanding citations" shall include only unpaid citations from the Department of Public Works, Police Department, CEO and Zoning Officer where the opportunity to contest has expired and administrative appeals have been exhausted.


SECTION XXIV - EFFECTIVE DATE.

This Ordinance shall become effective November 3, 2021.

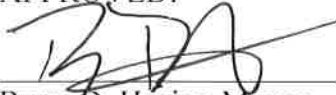
Duly enacted and ordained at a regular meeting of the West Pittston Council held the 3rd day of November 2021.

ATTEST:


Gloria Kijek, Borough Secretary


Ellen Quinn, President

APPROVED:


Barry D. Hosier, Mayor

I, Gloria Kijek, duly qualified Secretary of West Pittston Borough, Luzerne County, PA. hereby certify that the forgoing is a true and correct copy of an Ordinance duly adopted by majority vote of West Pittston Borough at a regular meeting held on November 3, 2021 and said Ordinance has been recorded in the Minutes of West Pittston Borough and remains in effect as of this day.



Gloria Kijek, Secretary



Date