

**BOROUGH OF MEDIA  
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 955 OF 2002

**AN ORDINANCE OF THE BOROUGH OF MEDIA,  
COUNTY OF DELAWARE, COMMONWEALTH OF  
PENNSYLVANIA, PROVIDING FOR SEASONAL  
OUTDOOR DINING USE OF PUBLIC SIDEWALKS  
THROUGH A PERMIT PROCESS AND FOR THE LIMITED  
CALENDAR PERIOD OF MAY 1 THROUGHOUT AND  
INCLUDING SEPTEMBER 30, AND THUS AMENDING  
CHAPTER 253-2 OF THE MEDIA CODE, SECTION 1:  
MEDIA BOROUGH REGARDING RESTRICTED USE OF  
SIDEWALKS AND AMENDING CHAPTER 173-1 TO  
INCLUDE THE DEFINITION OF SEASONAL OUTDOOR  
CAFÉ DINING.**

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council, Borough of Media, Delaware County, Pennsylvania, it is hereby enacted and ordained by the authority of the same that:

**SECTION 1: Chapter 253 - 2:** of the Media Code, Media Borough is amended to include the following:

A. Seasonal Outdoor Café Dining - An exception to these restrictions applies to seasonal outdoor café dining as defined further in this Ordinance. Seasonal Outdoor Café Dining for table service only, restricted to use sidewalks contiguous to property lines in excess of three (3) feet in width minimum from the building line to street line, and the use for Seasonal Outdoor Café Dining shall leave a minimum of 36 inches of usable, safe, clear walk area of the sidewalk that provides for American with Disabilities Act (ADA) compliant access. In the event that 36 inches is not adequate for ADA compliance, more than the 36 inches of useable sidewalk may be required in order to be ADA compliant; this will be determined by the Code Enforcement Officer. The use for Seasonal Outdoor Café Dining of the sidewalk area from 8:00 a.m. until 11:00 p.m. daily if a permit is received from the Borough. All equipment, tables, chairs, umbrellas and barricades will be removed from the sidewalk by October 1 of each year.

B. During the Borough permitted events, including but not limited to Super Sunday, Food Festival or Halloween Parade, the Borough will determine on an event by event basis, due to the concerns for the Borough citizens health, safety and welfare, if Seasonal Outdoor Café Dining may occur. Reasonable notice to permit holders under this Ordinance will be provided by the Borough.

**SECTION 2: Chapter 173-1:** is amended to include the following:

A. Seasonal Outdoor Café Dining – Any and all retail food handling establishment (s) may obtain a permit from Media Borough for the limited calendar time period of from May 1, through and including September 30 for the time period of 8:00 a.m. until 11:00 p.m. for outdoor dining on sidewalk that is contiguous to the property lines of the establishment. Umbrellas for the purpose of shielding patrons from weather and such elements may be affixed to outdoor tables in a manner, which prevents the umbrellas and/or tables and/or chairs from tipping. Umbrellas shall not contain any written advertisements for the food establishment(s) or vendor(s). Umbrellas shall not exceed the dimensions of the tables if vertical lines are drawn upward to where an umbrella would span nor can the umbrellas in height impede pedestrian's headroom. Temporary barricades, as approved by the Code Enforcement Officer, shall be placed at the edge of the usable sidewalk area for the food establishment in order to delineate the usable space for the food establishment and the usable walk area. Such barricades shall be in place during the hours of use. The location of outdoor dining may not use driveways or areas that are used for off-street parking.

**SECTION 3. Chapter 173-1:** is amended as follows:

A. The definition for food establishment is amended to include at the end of the last sentence of the following: .....and Seasonal Outdoor Café Dining.

**SECTION 4. Chapter 173-1:** is amended to include a new section 172-15 (2) (A) is added as follows:

A. Any food establishment intending to provide Seasonal Outdoor Café Dining table service only is required to apply for a permit. An application must be filed with the Borough to secure a permit. A fee of seventy-five dollars (\$75.00) must be paid with the filing of the application. Such fee can be amended in the future by resolution of Borough Council. Such application shall be made upon forms provided by the Borough and shall include the following:

1. Name and address of applicant.
2. Width of existing public right of way sidewalk intended to be used immediately adjacent to property.
3. Proof of proper licenses for food establishment.
4. Dimensions of the area of sidewalk in which outdoor café dining is proposed.
5. Diagram to scale of actual intended equipment, tables and chairs for space on sidewalk and proposed occupant load.

6. The written consent of the property owner.
7. Certificate of insurance demonstrating coverage for intended sidewalk use.
8. Indoor seating capacity of food establishment
9. No action shall be taken on any application for a permit under this subsection until the application has been completed in its entirety and the application fee, as required by a schedule of fees established and amended from time to time by resolution of Borough Council, has been paid in full. The schedule of fees shall be kept on file at the Borough Hall. There shall be no pro-ration of fees under this subsection.
10. The applicant shall well and truly save, indemnify, defend and keep harmless the Borough of Media, 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 restaurant-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 restaurant-café or by the acts or omissions of the employees or agents of the applicant in connection with such restaurant-café.
11. The applicant shall stop serving customers on or before 11:00 p.m. prevailing time, and clear all tables of food, beverages and customers on or before 12:00 midnight prevailing time.
12. The applicant shall maintain the restaurant-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 this use of restaurant-cafes.
13. The applicant shall remove the outdoor portion of the restaurant-café within thirty (30) days after written notice if the Borough or the Code Enforcement Officer determines that the restaurant-café is detrimental to the health, safety and general welfare of the Borough or its citizens.
  - a. Due to pedestrian traffic changes, the restaurant-café narrows the sidewalk to the extent that pedestrian traffic is impeded;
  - b. The restaurant-café interferes with the maintenance or installation of an underground utility structure;
  - c. The restaurant-café is no longer being used as such;
  - d. The restaurant-café has been temporarily or permanently closed for violation of any Borough, State or Federal Law and/or regulation; or

- e. The restaurant-café is operated in violation of any ordinance, rule or regulation of the Borough of Media.

14 In the event that the applicant fails to remove the restaurant-café within thirty (30) days after written notice, the Borough may proceed to remove and restore the area and charge the applicant for the cost thereof. Should the restaurant-café be removed by the Borough, the applicant 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 the sole responsibility of the applicant without any obligation or cost assessed against the Borough.

15. The Borough may, from time to time, promulgate whatever rules or regulations it deems necessary or desirable to effectuate the purposes of this subsection, and the same shall be approved by the Borough Council.

**SECTION 5. Severability:** The provisions of this Ordinance are severable, and if any sections, sentences, clauses, parts or provisions thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted as if such illegal invalid or unconstitutional, sections, sentences, clauses, parts or provisions had not been included therein.

**SECTION 6. Saving Provision:** Nothing in this Ordinance, as hereby amended, shall be construed to affect any suit or proceeding in any Court, and rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under this Ordinance prior to the adoption of this amendment.

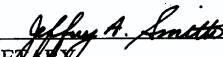
**SECTION 7. Immediate Effect:** This Ordinance shall take effect and be in force from and after its approval as required by law.

ENACTED AND ORDAINED, by the Borough of Media, Delaware County,  
Pennsylvania, this 6<sup>th</sup> day of *May*, 2002.


Attest:

**BOROUGH OF MEDIA**

  
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PRESIDENT OF COUNCIL  
JOAN M. HAGAN

  
\_\_\_\_\_  
SECRETARY

Approved this 6<sup>th</sup> day of *May*, 2002.

  
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MAYOR  
ROBERT A. McMAHON,