PUBLIC COMMENTS:
COUNCIL REQUESTS THAT PUBLIC
COMMENTS BE LIMITED TO (3)
THREE MINUTES PER PERSON

PRESENTATIONS:
COUNCIL REQUESTS THAT
PRESENTATIONS BE LIMITED
TO (30) MINUTES OR LESS AND
MUST BE PRE-ARRANGED WITH
THE MUNICIPAL CLERK

SALUTE TO THE FLAG
NOTICE OF PUBLIC MEETING
ROLL CALL

MEETING OPENED_____________________

MEETING CLOSED_____________________

OPEN PUBLIC PORTION – CLOSE PUBLIC PORTION

• HOTEL CONDITIONAL USE ZONING ORDINANCE
  JASON KASLER, PLANNER

• PROPOSED REVISIONS TO SIDEWALK CAFÉ ORDINANCE
  CARLOS PEREZ, HEALTH OFFICIAL
  SAL POLI, CONSTRUCTION OFFICIAL

• REVISED ORDINANCE FOR CONSTRUCTION FEES
  SAL POLI, CONSTRUCTION OFFICIAL

• PROPERTY MAINTENANCE CODE ENFORCEMENT
  SUMMARY/UPDATE
  SAL POLI, CONSTRUCTION OFFICIAL
AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF DENVILLE, CHAPTER 19, LAND USE, ARTICLE 5, ZONE REGULATIONS, IN ORDER TO REGULATE THE LOCATION OF HOTELS IN THE TOWNSHIP OF DENVILLE

WHEREAS, it is the intent of this ordinance to regulate the location of hotels in the Township of Denville. This ordinance removes hotels as permitted uses in the I-1 industrial zone in the Township of Denville and conditionally allowing hotels in the I-2 zone only. The intent of this ordinance is to restrict the location of these uses to parcels within the municipality that would have access to the Federal Highway System without significant impact upon the local road network and hence this ordinance utilizes a distance requirement for access to a federal highway; and

WHEREAS, this ordinance also allows hotels to be located in certain I-2 zoned lands and to contain accessory uses in accordance with specific regulations. This ordinance utilizes a combination of floor area ratio, height limitations and maximum building footprints to control the total amount of development on a specific site. The ordinance implements a floor area ratio bonus for hotel uses in the I-2 zone. For each percent in excess of the minimum required landscaped area, this ordinance permits an additional two percent of floor area ratio to a maximum floor area ratio of 0.55. This ordinance intentionally does not allow for the maximization of the floor area ratio and building footprint at the same time in order to allow for flexibility in the design process.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

SECTION 1. Chapter 19, Land Use, of the Code of the Township of Denville, Article 1, General Provisions, §19-1.2, Definitions, is hereby amended to add the following definitions to read as follows:

"Canopy shall mean a roof like cover that is temporary or portable in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements and is periodically retracted into the face of the building.

Canopy, fixed shall mean a canopy that is constructed with a rigid frame than can not be retracted, folded or collapsed.

Hotel shall mean a facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, fitness and health centers, entertainment, personal services, recreational facilities and limited retail.

Landscaping shall mean to adorn or improve (a section of ground) by contouring and by planting flowers, shrubs, trees and other natural ground covers.

Parapet shall mean the extension of the main walls of a building above the roofline.

Portico shall mean an open sided structure attached to a building and sheltering an entrance or serving as a semi-enclosed space."
SECTION 2. Chapter 19, Land Use, of the Code of the Township of Denville, Article 5, Zone Regulations, §19-5.5, Map and Schedule, Schedule of Area, Yard & Bulk Requirements, is hereby amended and supplemented by the addition of a new footnote (10), keyed to Primary Use to read as follows:

"(10) See section §19-5.2307(b) for conditional use standards pertaining solely to Hotel Development in the I-2 Industrial District."

SECTION 3. Chapter 19, Land Use, of the Code of the Township of Denville, Article 5, Zone Regulations, §19-5.8, Parking and Loading, subsection §19-5.802, Off-Street Parking in Nonresidential Zones, is hereby amended with respect to Hotel only to read as follows:

"TYPE OF BUILDING OR USE   MINIMUM NUMBER OF SPACES
   Hotel                   1.2 parking spaces per guest room plus
                           the parking required for the sum of all other
                           uses on site including, but not limited to:
   Restaurant             As specified elsewhere in this schedule
   Convention/Conference Facilities
   Banquet/Ballroom Facilities   1 for each 150 sq. ft. GFA
                                1 for each 100 sq. ft. GFA"

SECTION 4. Chapter 19, Land Use, of the Code of the Township of Denville, Article 5, Zone Regulations, §19-5.10, Conditional Uses, is hereby amended and supplemented by the addition of a new subsection, §19-5.1012, Hotels, to read as follows:

"§19-5.1012. Hotels and their accessory facilities shall be permitted in compliance with §19-5.2307 of this chapter."

SECTION 5. Chapter 19, Land Use, of the Code of the Township of Denville, Article 5, Zone Regulations, §19-5.22, I-1 Industrial District, subsection §19-5.2201, Primary Intended Use, the introductory paragraph only, is hereby amended to read as follows:

"§19-5.2201 Primary Intended Use.

This zone is designated for offices for business, professional, executive or administrative purposes, scientific or research laboratories, industrial and manufacturing uses and indoor commercial recreation. The intensity of operations shall not exceed the limitations imposed by the performance standards hereinafter set forth in this Section. Also permitted in this District are:"
Subsection §19-5.2307, Permitted Conditional Uses, is hereby amended and supplemented by the addition of paragraph b. to read as follows:

"b. Hotels

1. Minimum Lot size: 2 acres

2. Setbacks. All hotel buildings shall meet the following yard setbacks:

   (a) Front Yard: 75 feet
       Allowable incursions into front yard setback:
       i. Portico may extend 40 feet into front yard
       ii. Canopy may extend 5 feet into front yard

   (b) Side Yard: 40 feet

   (c) Rear Yard: 75 feet

3. Location requirements

   (a) All hotels must be located within 2,640 feet (1/2 mile) from access to a federal highway. Measurements shall be made as the site is accessed and not radially.

   (b) May not be located in "A". "AE" FEMA Flood Zones as these are high risk flood areas.

4. Maximum Floor Area Ratio: 0.25

   (a) Notwithstanding the maximum floor area ratio, for each One percent (1%) increase in landscaped pervious area over and above the 10% required, an increase in floor area ratio of 0.02 will be permitted up to a maximum floor area ratio of 0.55.

      i. For a landscaped area to be included in this calculation, it must be at least 5 feet in depth.
      ii. To take advantage of this FAR bonus, no parking variance or impervious surface variance may be requested.

5. Maximum Height in Stories: 5

6. Maximum Height in Feet: 55

   (b) Allowable extensions of height.

      i. HVAC and similar mechanical equipment and roof appurtenances.

      [1] Requires that all such appurtenances do not occupy more than 10 percent (10%) of the total roof surface; and

      [2] Are less than 10 feet in height; and


      ii. A parapet may extend 5 feet above maximum height.

7. Maximum Height of Portico: 22 feet
8. Maximum Building Coverage: 0.20
   
   (a) Any proposed portico or fixed canopy shall be included in the building coverage calculation.

9. Maximum Impervious Coverage (total): 0.85

10. Parking: As required by §19-5.8

11. Mixture of hotel use and any use below in accordance with the following regulations:
   
   (a) Conference center: Maximum of 50% of the square footage of entire hotel use.
   (b) Restaurant: Maximum 7,500 square feet
   (c) Retail or personal services shall be allowed provided that they are entirely contained with the hotel building, have no direct access to the outside and shall not have exterior signs or other appurtenances.

12. Central Entrance Required.

   All hotel buildings shall contain a central entrance leading to a common lobby area, which lobby area shall contain the registration and service desk, which service desk shall be manned 24 hours a day and be situated in the lobby area so that guests who are entering or leaving the hotel may be clearly observed. Access to the sleeping rooms shall be only through hallways extending from the common lobby area. The door to each sleeping room shall open upon the hallways. No sleeping room on the first floor of the hotel shall contain exterior doors other than the door opening upon the hallways.

13. Landscaping: A minimum of ten percent (10%) of the lot shall be landscaped; parking lots abutting adjacent properties shall include a minimum 10 foot wide landscaping area.

   
   (a) All storage of garbage and other refuse shall be in compliance with Ord. §3-13A.
   (b) No garbage or other refuse collection container shall be located closer than 10 feet from a property line.

15. Generator.
   
   (a) If a generator is utilized, it must be located on the roof of the structure, or be adequately screened with either fencing or landscaping or both.
   (b) A generator shall not be located closer than 45 feet from a property line.

17. No vehicles, trailers and/or commercial vehicles shall be permitted to be stored on-site or within the parking lot unless the operator is a registered guest of the hotel."

SECTION 7. The Township Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S. 40:49-2.1.

SECTION 8. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION 9. This ordinance may be renumbered for codification purposes.

SECTION 10. This ordinance shall take effect after passage and publication as soon as practicable and in the manner provided by law.

SECTION 11. In the event that any section, part or provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE

ATTEST:

DONNA I. COSTELLO, RMC/CMC
MUNICIPAL CLERK

APPROVED:

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on ____________, 2014

Donna I. Costello, RMC/CMC
ORDINANCE NO. -14

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER IV, GENERAL LICENSING, SECTION 4-11, SIDEWALK CAFES

BE IT ORDAINED, by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter IV, General Licensing, Section 4-11, Sidewalk Cafes, is hereby amended and supplemented in its entirety to read as follows:

"4-11 SIDEWALK CAFES.

4-11.1 Purposes.

The sidewalk cafe regulations as established by this section are designed to permit sidewalk cafes to be established on public property in locations where they shall be determined to be appropriate by these regulations and all applicable related ordinances to promote and protect the public health, safety and general welfare. These general purposes shall include, among others, the following specific purposes:

a. To insure that adequate space will be provided for pedestrian circulation through areas where sidewalk cafes are established and to insure adequate access to adjoining properties and businesses.

b. To encourage the establishment of sidewalk cafes as one means of developing a pleasant and distinctive shopping atmosphere.

4-11.2 Definitions.

As used in this section:

a. "Restaurant" shall mean a retail food establishment licensed by the Division of Health which provides indoor seating for dining and restroom facilities for use by patrons in accordance with the requirements of the NJ Uniform Construction Code as codified at N.J.A.C. 5:23-1.1 et seq. and as the same may be from time to time amended and supplemented.

b. "Sidewalk cafe" shall mean the extension of the services of an existing restaurant preparing and serving foods for consumption within an existing building, to the extent that food is permitted to be served and consumed at the tables placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the restaurant is located. A sidewalk cafe may contain readily removable tables and chairs, but shall be otherwise unenclosed by fixed walls and open to the air except for retractable awnings, umbrellas or other nonpermanent covers provided such covers do not interfere with pedestrian circulation.
4-11.3 License Required.

Any person, firm or corporation may operate a sidewalk cafe (hereinafter called a "cafe") within the Township of Denville in any zone in which such use is permitted on a sidewalk adjacent to an existing restaurant operated by such person, firm or corporation upon obtaining a license from the Division of Health. Such license shall allow the operation of a cafe from April 1 through and including November 1 of any calendar year and may be renewed annually during the month of January. No license shall be issued by the Division of Health for the operation of a café to a person, persons, firm, or corporation other than the person, persons, firm, or corporation who holds the retail food establishment license from the Division of Health for the restaurant where the café shall be operated.

4-11.4 Application Procedures; Requirements and Fee.

a. Application and fee. Each applicant for a license shall submit a written application on the form provided by the Division of Health, together with a nonrefundable fee to the Division of Health in the amount set forth at Chapter 2A of the Township Code. All applications for a given calendar year and the application fees must be submitted to the Division of Health by February 15 of the applicable calendar year. No application will be accepted without the fee. In the event that an application, application fee, or other required document as described in this section is received later than February 15, a nonrefundable late fee of one hundred ($100.00) dollars in addition to the license fee as set forth at Chapter 2A of the Township Code must be paid in order for the application to be considered.

The application shall state the name and address of the applicant, the property owner if other than the applicant, the person preparing the development plan and the written authorization of the owner of the property to submit the application if the applicant is not the owner.

b. Development plans. The following information shall be shown on all development plans:

1. The applicant's entire property and the adjacent sidewalk area to be used.

2. The design, number and location of all temporary structures proposed including tables, chairs, planters, awnings and other equipment as well as lighting and electrical outlet locations, if any.

3. Capacity of existing restaurant and proposed cafe.

4. Proposal for providing adequate pedestrian circulation as detailed herein in section e 5 below.

5. Name, title and seal, if applicable, of person who prepared the development plan.

6. Statement that a public restroom is available in the existing restaurant.
7. If alcoholic beverages are permitted, the area to be cordoned off pursuant to §4-11.6 and the point(s) of ingress and egress.

c. Review of development plans. Prior to the issuance of a license pursuant to this section, the development plans and application shall be reviewed by the health officer and construction official/zoning officer. The health officer shall review the development plans for compliance with N.J.A.C. 8:24-1.1 et seq. and as the same may be amended and supplemented from time to time together with the sanitary requirements detailed in this section and any applicable local health ordinances. The construction official/zoning officer shall review the development plan for compliance with New Jersey Uniform Construction Code requirements and requirements detailed in this section relative to the placement of tables, chairs, planters, awnings, lighting, and electrical outlets as well as dimensions and distances. The health officer and construction official/zoning officer shall either approve or recommend modifications of the plans within 20 days of submission of the plans.

d. Conditions for issuance of license. Upon approval by the health officer and construction official/zoning officer of the application and plans submitted by the applicant pursuant to this section, the health officer shall issue a license to the applicant provided the applicant has furnished the following to the township:

1. An agreement signed by the applicant to repair any damage caused to the sidewalk in the operation of the cafe at the expense of the applicant. The township may require a bond to be filed by the applicant in an amount to be determined by the township to secure the repair of any damage to the sidewalk.

2. An agreement signed by the applicant indemnifying and holding the township harmless against loss, including costs and expenses, resulting from injury to person(s) or property as a direct or indirect result of the operation of the cafe or for injury to person(s) or property occurring on the premises occupied by the cafe. The applicant shall provide a certificate of insurance as evidence of the required policy to the township, and naming the township as a named insured, in the amount of not less than one million ($1,000,000.00) dollars.

e. Rules, regulations and specifications. A cafe authorized and operated pursuant to this section shall comply with all of the following rules, regulations and specifications:

1. The applicant and/or operator shall fully comply with all plans submitted and approved by the division of health and construction official/zoning officer under the terms of this section.

2. Within 30 minutes after the closing of the cafe, the operator shall have all furniture, utensils, or any other materials used in the operation of the cafe or within the area used by the cafe, and all customers, removed from the sidewalk area. Said closing shall be not later than 10:00 p.m.
3. Music, if any, shall be kept at a reasonable level that is not unnecessarily loud or objectionable to persons in or around the area.

4. The operator shall maintain an area for pedestrian movement free of any obstruction a distance of 6 feet from the curb. The operator shall provide that tables, chairs, and other materials do not interfere with these required open areas and pedestrian traffic. Chairs next to the pedestrian walkway shall be placed at a 90 degree angle so as not to obstruct the pedestrian walkway. Where there are obstructions, such as light posts and mailboxes, which would cause the pedestrian aisle to be less than four feet wide, the construction official/zoning officer shall have the discretion to approve an alternate arrangement.

5. The operator shall comply with all the requirements of N.J.A.C. 8:24-1 et seq., also known as Chapter XXIV of the New Jersey Sanitary Code, and as the same may be from time to time amended and supplemented along with the sanitary requirements detailed in this section.

6. The operator shall comply with all other ordinances of the Township of Denville.

4-11.5 Notice of Violation: Failure to Comply.

Upon a finding by the Division of Health or construction official/zoning officer that an applicant has violated any provisions of this section, notice shall be given to the applicant to correct said violation. Upon failure to immediately correct said violation: the health officer or construction official/zoning officer may revoke the applicant's license to operate a sidewalk cafe. Upon the revocation of such license, the applicant shall be entitled to a hearing before the governing body within 30 days, upon notice thereof, provided that a hearing is requested by the applicant in writing, within five days of revocation of the license.

4-11.6 Sale and Consumption of Alcoholic Beverages.

The area encompassed within a cafe authorized pursuant to this section shall be considered duly licensed for sale and consumption of alcoholic beverages, provided that such area is part of the licensed premises pursuant to a valid alcoholic beverage control license issued by the Township of Denville and that there is compliance with all Alcoholic Beverage Commission regulations. Such license is separate from, and must be obtained in addition to, the license to operate a sidewalk cafe issued pursuant to this section. The café area authorized pursuant to this section must be cordoned off so as to provide a defined area subject to approval by the township and which must have at least one point of ingress and egress from the cordoned off area.

4-11.7 Sanitary Requirements.

The licensee shall comply with the following Division of Health requirements:
a. No fruit, vegetables and other food shall be stored or displayed for sale in the café authorized by this section.

b. No food or drinks served at outdoor seating areas shall be prepared other than in the interior areas of the retail food establishment approved by the Division of Health for such use.

c. All equipment used in the outdoor seating area, including but not limited to chairs and tables, shall be nonabsorbent, smooth, easily cleanable, of corrosive-resistant material, and meet the requirements of the New Jersey Sanitary Code at N.J.A.C. 8:24-1.1 et seq., as the same may be from time to time amended and supplemented.

d. No food service equipment shall be stored in or permanently mounted to any area of the outdoor dining area.

e. Containers used in the conveyance of soiled tableware shall not be permanently stored outdoors. Soiled tableware shall be promptly removed to the establishment's equipment washing area after patron use.

f. Smoking shall be prohibited in the outdoor dining area. Such areas shall be marked by a sign approved by the Division of Health indicating the prohibition of smoking.

g. Each licensee is responsible for keeping the area of the outdoor dining area and the adjacent walks and streets clean, free of litter and food wastes, free of nuisances and sanitary at all times. Areas must be cleaned at the beginning of each business day, at closing time and as often as needed so as to prevent unsanitary conditions.

h. Effective control measures shall be utilized to minimize, prevent and eliminate the presence and entry of rodents, flies, and all other vermin into the establishment. Outdoor dining areas and all other parts of the establishment shall be kept in such condition so as to prevent the breeding, harborage or feeding of all vermin.

i. The licensee shall provide adequate receptacles for the depositing of waste by patrons as deemed necessary by the Division of Health. Such receptacles shall have lids and designed so as to preclude the entry, harborage, or breeding of vermin. Such receptacles shall be constructed of easily cleanable non-absorbent material and shall be maintained in a sanitary manner at all times. The licensee shall ensure that waste receptacles are routinely serviced so as to prevent overflow of contents upon the ground. Waste receptacles owned and maintained by the township shall not be used by the licensee for depositing of waste generated by the establishment including the outdoor café.

4-11.8 Enforcement.

a. The health officer shall investigate violations related to and enforce all applicable requirements set forth in N.J.A.C. 8:24-1.1 et seq. and as the same may be
from time to time amended and supplemented along with the sanitary requirements detailed in this section and any applicable local health ordinances.

b. The construction official/zoning officer shall investigate violations related to and enforce all applicable requirements set forth in New Jersey Uniform Construction Code and requirements detailed in this section relative to the placement of tables, chairs, planters, awning, lighting, electrical outlets along with dimensions and distances.

c. Violations of section 4-11.4 (e) 2 & 4 shall be investigated and enforced by the Township Police Department.”

SECTION 2. All Ordinances of the Township of Denville that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause of phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. The provisions of this ordinance may be renumbered for purposes of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE

ATTEST:  

APPROVED:

DONNA I. COSTELLO, RMC/CMC  
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES  
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on ______________, 2014

Donna I. Costello, RMC/CMC
4-11 SIDEWALK CAFES.

4-11.1 Purposes.

The sidewalk cafe regulations as established by this section are designed to permit sidewalk cafes to be established on public property in locations where they shall be determined to be appropriate by these regulations and all applicable related ordinances to promote and protect the public health, safety and general welfare. These general purposes shall include, among others, the following specific purposes:

a. To insure that adequate space will be provided for pedestrian circulation through areas where sidewalk cafes are established and to insure adequate access to adjoining properties and businesses.

b. To encourage the establishment of sidewalk cafes as one means of developing a pleasant and distinctive shopping atmosphere.

4-11.2 Definitions.

As used in this section:

a. "Sidewalk cafe" shall mean the extension of the services of an existing restaurant preparing and serving foods for consumption within an existing building, to the extent that food is permitted to be served and consumed at the tables placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the restaurant is situated. A sidewalk cafe may contain readily removable tables and chairs, but shall be otherwise unenclosed by fixed walls and open to the air except for retractable awnings, umbrellas or other nonpermanent covers provided such covers do not interfere with pedestrian circulation.

4-11.3 License Required.

Any person, firm or corporation may operate a sidewalk cafe (hereinafter called a "cafe") within the Township of Denville in any zone in which such use is permitted on a sidewalk adjacent to an existing restaurant operated by such person, firm or corporation upon obtaining a license from the Division of Health. Such license shall allow the operation of a cafe from April 1 through and including November 1 of any calendar year and may be renewed annually during the month of January.

4-11.4 Application Procedures; Requirements and Fee.

a. Application and fee. Each applicant for a license shall submit a written application on the form provided by the Division of Health, together with a nonrefundable fee of one hundred ($100.00) dollars, to the Division of Health. All applications for a given calendar year and the application fee must be submitted by January 31 of the applicable calendar year. No application will be accepted without the fee. The insurance certificate and drawings required by paragraphs b. and d. below must be submitted to the Division of Health by March 31 of the
applicable calendar year. In the event that an application or application fee is submitted later than January 31 or if the development plan and/or insurance certificate is submitted after March 31, a nonrefundable late fee of one hundred ($100.00) dollars in addition to the application fee, must be paid in order for the application to be considered. No late fees shall be assessed for calendar year 2001.

The application shall state the name and address of the applicant, the property owner if other than the applicant, the person preparing the development plan and the written authorization of the owner of the property to submit the application if the applicant is not the owner.

b. Development plans. The following information shall be shown on all development plans:

1. The applicant's entire property and the adjacent sidewalk area to be used.
2. The design, number and location of all temporary structures proposed including tables, chairs, planters, awnings and other equipment as well as lighting and electrical outlet locations, if any.
3. Capacity of existing restaurant and proposed cafe.
5. Name, title and seal, if applicable, of person who prepared the development plan.

c. Review of development plans. Prior to the issuance of a license pursuant to this section, the development plans and application shall be reviewed by the health officer who shall either approve or recommend modification of the plans within 20 days of submission of the plans.

d. Conditions for issuance of license. Upon approval by the health officer of the application and plans submitted by the applicant pursuant to this section, the health officer shall issue a license to the applicant provided the applicant has furnished the following to the township:

1. An agreement signed by the applicant to repair any damage caused to the sidewalk in the operation of the cafe at the expense of the applicant. The township may require a bond to be filed by the applicant in an amount to be determined by the township to secure the repair of any damage to the sidewalk.
2. An agreement signed by the applicant indemnifying and holding the township harmless against loss, including costs and expenses, resulting from injury to person(s) or property as a direct or indirect result of the operation of the cafe or for injury to person(s) or property occurring on the premises occupied by the cafe. The applicant shall provide a certificate of insurance as evidence of the required policy to the township, and naming the township as a named insured, in the amount of not less than five hundred thousand ($500,00) dollars for calendar year 2001 and one million ($1,000,000.00) dollars thereafter.

e. Rules, regulations and specifications. A cafe authorized and operated pursuant to this section shall comply with all of the following rules, regulations and specifications:
1. The applicant and/or operator shall fully comply with all plans submitted and approved by the division of health under the terms of this section.

2. Within 30 minutes after the closing of the cafe, the operator shall have all furniture, utensils, or any other materials used in the operation of the cafe or within the area used by the cafe, removed from the sidewalk area including customers. Said closing shall be not later than 10:00 p.m.

3. The area of operation shall be kept clean and free of litter. Ashtrays shall be provided if smoking is permitted by the operator and/or applicant. Sidewalks shall be washed daily and closed trash receptacles, including smoker's outposts shall be provided as approved by the health officer.

4. Music, if any, shall be kept at a reasonable level that is not unnecessarily loud or objectionable to persons in or around the area.

5. The operator shall maintain an area for pedestrian movement free of any obstruction a distance of 6 feet from the curb. The operator shall provide that tables, chairs, and other materials do not interfere with these required open areas and pedestrian traffic. Chairs next to the pedestrian walkway shall be placed at a 90 degree angle so as not to obstruct the pedestrian walkway. Where there are obstruction, such as light posts and mailboxes, which would cause the pedestrian aisle to be less than four feet wide, the health officer shall have the discretion to approve an alternate arrangement.

6. The operator shall comply with all the requirements of N.J.A.C. 8:24-1 et seq., also known as Chapter XII of the New Jersey Sanitary Code, and N.J.S.A. 24:15-1 et seq.

7. The operator shall comply with all other ordinances of the Township of Denville.

4-11.5 Notice of Violation: Failure to Comply.

Upon a finding by the Division of Health that an applicant has violated any provisions of this section, the Health Officer shall give notice to the applicant to correct said violation. Upon failure to immediately correct said violation: the health officer may revoke the applicant's license to operate a sidewalk cafe. Upon the revocation of such license, the applicant shall be entitled to a hearing before the governing body within 30 days, upon notice thereof, provided that a hearing is requested by the applicant. In writing, within five days of revocation of the license.

4-11.6 Sale and Consumption of Alcoholic Beverages.

The area encompassed within a cafe authorized pursuant to this section shall be considered duly licensed for sale and consumption of alcoholic beverages, provided that such area is part of the licensed premises pursuant to a valid alcoholic beverage control license issued by the Township of Denville. Such license is separate from, and must be obtained in addition to, the license to operate a sidewalk cafe issued pursuant to this section.
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER IV, GENERAL LICENSING, SECTION 4-11, SIDEWALK CAFES

BE IT ORDAINED, by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter IV, General Licensing, Section 4-11, Sidewalk Cafes, is hereby amended and supplemented in its entirety to read as follows:

"4-11 SIDEWALK CAFES.

4-11.1 Purposes.

The sidewalk cafe regulations as established by this section are designed to permit sidewalk cafes to be established on public property in locations where they shall be determined to be appropriate by these regulations and all applicable related ordinances to promote and protect the public health, safety and general welfare. These general purposes shall include, among others, the following specific purposes:

a. To insure that adequate space will be provided for pedestrian circulation through areas where sidewalk cafes are established and to insure adequate access to adjoining properties and businesses.

b. To encourage the establishment of sidewalk cafes as one means of developing a pleasant and distinctive shopping atmosphere.

4-11.2 Definitions.

As used in this section:

a. "Restaurant" shall mean a retail food establishment licensed by the Division of Health which provides indoor seating for dining and restroom facilities for use by patrons in accordance with the requirements of the NJ Uniform Construction Code as codified at N.J.A.C. 5:23-1.1 et seq., and as the same may be from time to time amended and supplemented.

b. "Sidewalk cafe" shall mean the extension of the services of an existing restaurant preparing and serving foods for consumption within an existing building, to the extent that food is permitted to be served and consumed at the tables placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the restaurant is located. A sidewalk cafe may contain readily removable tables and chairs, but shall be otherwise unenclosed by fixed walls and open to the air except for retractable awnings, umbrellas or other nonpermanent covers provided such covers do not interfere with pedestrian circulation.
4-11.3 License Required.

Any person, firm or corporation may operate a sidewalk cafe (hereinafter called a "cafe") within the Township of Denville in any zone in which such use is permitted on a sidewalk adjacent to an existing restaurant operated by such person, firm or corporation upon obtaining a license from the Division of Health. Such license shall allow the operation of a cafe from April 1 through and including November 1 of any calendar year and may be renewed annually during the month of January. No license shall be issued by the Division of Health for the operation of a cafe to a person, persons, firm, or corporation other than the person, persons, firm, or corporation who holds the retail food establishment license from the Division of Health for the restaurant where the cafe shall be operated.

4-11.4 Application Procedures; Requirements and Fee.

a. Application and fee. Each applicant for a license shall submit a written application on the form provided by the Division of Health, together with a nonrefundable fee to the Division of Health in the amount set forth at Chapter 2A of the Township Code. All applications for a given calendar year and the application fees must be submitted to the Division of Health by February 15 of the applicable calendar year. No application will be accepted without the fee. In the event that an application, application fee, or other required document as described in this section is received later than February 15, a nonrefundable late fee of one hundred ($100.00) dollars in addition to the license fee as set forth at Chapter 2A of the Township Code must be paid in order for the application to be considered.

The application shall state the name and address of the applicant, the property owner if other than the applicant, the person preparing the development plan and the written authorization of the owner of the property to submit the application if the applicant is not the owner.

b. Development plans. The following information shall be shown on all development plans:

1. The applicant's entire property and the adjacent sidewalk area to be used.

2. The design, number and location of all temporary structures proposed including tables, chairs, planters, awnings and other equipment as well as lighting and electrical outlet locations, if any.

3. Capacity of existing restaurant and proposed cafe.

4. Proposal for providing adequate pedestrian circulation as detailed herein in section e 5 below.

5. Name, title and seal, if applicable, of person who prepared the development plan.

6. Statement that a public restroom is available in the existing restaurant.
7. If alcoholic beverages are permitted, the area to be cordoned off pursuant to §4-11.6 and the point(s) of ingress and egress.

c. Review of development plans. Prior to the issuance of a license pursuant to this section, the development plans and application shall be reviewed by the health officer and construction official/zoning officer. The health officer shall review the development plans for compliance with N.J.A.C. 8:24-1.1 et seq. and the same may be from time to time amended and supplemented together with the sanitary requirements detailed in this section and any applicable local health ordinances. The construction official/zoning officer shall review the development plan for compliance with applicable New Jersey Uniform Construction Code requirements and requirements detailed in this section relative to the placement of tables, chairs, planters, awnings, lighting, and electrical outlets as well as dimensions and distances. The health officer and construction official/zoning officer shall either approve or recommend modifications of the plans within 20 days of submission of the plans.

d. Conditions for issuance of license. Upon approval by the health officer and construction official/zoning officer of the application and plans submitted by the applicant pursuant to this section, the health officer shall issue a license to the applicant provided the applicant has furnished the following to the township:

1. An agreement signed by the applicant to repair any damage caused to the sidewalk in the operation of the cafe at the expense of the applicant. The township may require a bond to be filed by the applicant in an amount to be determined by the township to secure the repair of any damage to the sidewalk.

2. An agreement signed by the applicant indemnifying and holding the township harmless against loss, including costs and expenses, resulting from injury to person(s) or property as a direct or indirect result of the operation of the cafe or for injury to person(s) or property occurring on the premises occupied by the cafe. The applicant shall provide a certificate of insurance as evidence of the required policy to the township, and naming the township as a named insured, in the amount of not less than one million ($1,000,000.00) dollars.

e. Rules, regulations and specifications. A cafe authorized and operated pursuant to this section shall comply with all of the following rules, regulations and specifications:

1. The applicant and/or operator shall fully comply with all plans submitted and approved by the division of health and construction official/zoning officer under the terms of this section.

2. Within 30 minutes after the closing of the cafe, the operator shall have all furniture, utensils, or any other materials used in the operation of the cafe or within the area used by the cafe, and all customers, removed from the sidewalk area. Said closing shall be not later than 10:00 p.m.
3. Music, if any, shall be kept at a reasonable level that is not unnecessarily loud or objectionable to persons in or around the area.

4. The operator shall maintain an area for pedestrian movement free of any obstruction a distance of 6 feet from the curb. The operator shall provide that tables, chairs, and other materials do not interfere with these required open areas and pedestrian traffic. Chairs next to the pedestrian walkway shall be placed at a 90 degree angle so as not to obstruct the pedestrian walkway. Where there are obstructions, such as light posts and mailboxes, which would cause the pedestrian aisle to be less than four feet wide, the construction official/zoning officer shall have the discretion to approve an alternate arrangement.

5. The operator shall comply with all the requirements of N.J.A.C. 8:24-1 et seq., also known as Chapter XXIV of the New Jersey Sanitary Code, and as the same may be from time to time amended and supplemented along with the sanitary requirements detailed in this section.

6. The operator shall comply with all other ordinances of the Township of Denville.

4.11.5 Notice of Violation: Failure to Comply.

Upon a finding by the Division of Health or construction official/zoning officer that an applicant has violated any provisions of this section, notice shall be given to the applicant to correct said violation. Upon failure to immediately correct said violation, the health officer or construction official/zoning officer may revoke the applicant's license to operate a sidewalk cafe. Upon the revocation of such license, the applicant shall be entitled to a hearing before the governing body within 30 days, upon notice thereof, provided that a hearing is requested by the applicant in writing, within five days of revocation of the license.

4.11.6 Sale and Consumption of Alcoholic Beverages.

The area encompassed within a cafe authorized pursuant to this section shall be considered duly licensed for sale and consumption of alcoholic beverages, provided that such area is part of the licensed premises pursuant to a valid alcoholic beverage control license issued by the Township of Denville and that there is compliance with all Alcoholic Beverage Commission regulations. Such license is separate from, and must be obtained in addition to, the license to operate a sidewalk cafe issued pursuant to this section. The cafe area authorized pursuant to this section must be cordoned off so as to provide a defined area subject to approval by the township and which must have at least one point of ingress and egress from the cordoned off area.

4.11.7 Sanitary Requirements.

The licensee shall comply with the following Division of Health requirements:
a. No fruit, vegetables and other food shall be stored or displayed for sale in the cafe authorized by this section.

b. No food or drinks served at outdoor seating areas shall be prepared other than in the interior areas of the retail food establishment approved by the Division of Health for such use.

c. All equipment used in the outdoor seating area, including but not limited to chairs and tables, shall be nonabsorbent, smooth, easily cleanable, of corrosive-resistant material, and meet the requirements of the New Jersey Sanitary Code at N.J.A.C. 8:24-1.1 et seq., as the same may be from time to time amended and supplemented.

d. No food service equipment shall be stored in or permanently mounted to any area of the outdoor dining area.

e. Containers used in the conveyance of soiled tableware shall not be permanently stored outdoors. Soiled tableware shall be promptly removed to the establishment's equipment washing area after patron use.

f. Smoking shall be prohibited in the outdoor dining area. Such areas shall be marked by a sign approved by the Division of Health indicating the prohibition of smoking.

g. Each licensee is responsible for keeping the area of the outdoor dining area and the adjacent walks and streets clean, free of litter and food wastes, free of nuisances and sanitary at all times. Areas must be cleaned at the beginning of each business day, at closing time and as often as needed so as to prevent unsanitary conditions.

h. Effective control measures shall be utilized to minimize, prevent and eliminate the presence and entry of rodents, flies, and all other vermin into the establishment. Outdoor dining areas and all other parts of the establishment shall be kept in such condition so as to prevent the breeding, harborage or feeding of all vermin.

i. The licensee shall provide adequate receptacles for the depositing of waste by patrons as deemed necessary by the Division of Health. Such receptacles shall have lids and designed so as to preclude the entry, harborage, or breeding of vermin. Such receptacles shall be constructed of easily cleanable non-absorbent material and shall be maintained in a sanitary manner at all times. The licensee shall ensure that waste receptacles are routinely serviced so as to prevent overflow of contents upon the ground. Waste receptacles owned and maintained by the township shall not be used by the licensee for depositing of waste generated by the establishment including the outdoor cafe.

4-11.8 Enforcement.

a. The health officer shall investigate violations related to and enforce all applicable requirements set forth in N.J.A.C. 8:24-1.1 et seq. and as the same may be
from time to time amended and supplemented along with the sanitary requirements
detailed in this section and any applicable local health ordinances.

b. The construction official/zoning officer shall investigate violations related
to and enforce all applicable requirements set forth in New Jersey Uniform Construction
Code and requirements detailed in this section relative to the placement of tables,
chairs, planters, awning, lighting, electrical outlets along with dimensions and distances.

c. Violations of section 4-11.4 (e) 2 & 4 shall be investigated and enforced
by the Township Police Department."

SECTION 2. All Ordinances of the Township of Denville that are inconsistent
with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause of phrase of this
Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect
the remaining portions of this Ordinance.

SECTION 4. The provisions of this ordinance may be renumbered for purposes
of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage,
approval and publication as required by law.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

ATTEST: 

APPROVED:

DONNA I. COSTELLO, RMC/CMC
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal
Council of the Township of Denville at its meeting held on _____________, 2014

Donna I. Costello, RMC/CMC
ORDINANCE NO. 14

AN ORDINANCE TO AMEND CHAPTER II-A, FEES, OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF DENVILLE WITH REGARD TO CONSTRUCTION FEES

BE IT ORDAINED, by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter II-A, Fees, of the General Ordinances of the Township of Denville is hereby amended and supplemented with respect to Plumbing Subcode, Fire Subcode, Building Subcode and Electrical Subcode only in the following particulars:

a. §2A-7 PLUMBING SUBCODE, is hereby amended and supplemented by the addition of the following fee:

"Review of revised plans $50.00"

b. §2A-8 FIRE SUBCODE, is hereby amended and supplemented by the addition of the following fee:

"Review of revised plans $50.00"

c. §2A-9 BUILDING SUBCODE, is hereby amended and supplemented by the addition of the following fee:

"Review of revised plans $50.00"

d. §2A-10 ELECTRIC SUBCODE, is hereby amended and supplemented by the addition of the following fee:

"Review of revised plans $50.00"

SECTION 2. All Ordinances of the Township of Denville which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause of phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
SECTION 4. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.