

**LEGAL NOTICE
NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that a hearing will be held at 7:30 p.m. in the Council Chambers of the Kenmore Municipal Building, 2919 Delaware Avenue, Kenmore, New York on Tuesday, May 20, 2025 by the Board of Trustees for the Village of Kenmore to consider, and possibly adopt, a proposed Local Law which would regulate outdoor events on commercial properties. The law would require commercial properties to obtain a permit before conducting any outdoor event. The proposed law is available to review in the Office of the Clerk/Treasurer during business hours.

Kathleen P. Johnson
Clerk/Treasurer, Village of Kenmore

VILLAGE OF KENMORE, NEW YORK
Local Law No. ____ of 2025

A Local Law Regulating Outdoor Events on Commercial Properties

Be it hereby enacted by the Village Board of the Village of Kenmore as follows:

Section 1: Purpose, Intent, And Findings.

The Village of Kenmore (the “Village”) is one of the more densely populated suburbs in the State of New York, with many residential properties abutting commercial or mixed-use properties. As a result, when commercial venues, including local bars and restaurants, host outdoor events, the Village often receives complaints related to excessive noise, public drunkenness, underage drinking, and insufficient parking available for residents, among others. Frequent outdoor events at commercial venues have therefore adversely affected the livability of many residential neighborhoods. To balance the need for a vibrant bar and restaurant scene while protecting the livability of residential and mixed-use neighborhoods, and to promote the health, safety, and general welfare of the residents of the Village, and visitors thereto, the Village hereby adopts this local law governing outdoor events on commercial properties.

Section 2: Definitions.

Outdoor Event shall be defined as any outdoor gathering, party, concert, show, fair, or other social event taking place at a commercial venue (*i.e.*, bar or restaurant) held outside of any building. Such events may include outdoor live music or other amplified music, outdoor food and beverage service, and/or outdoor games. Outdoor Dining is not an outdoor event.

Commercial Venue shall be defined the premises of any business that serves food and/or beverages to members of the public for a profit or serves an event space for profit.

Outdoor Dining shall be defined as the use of space ancillary and contiguous to an approved eating establishment (restaurant, bar, or retail food establishment) by patrons of such establishment for the sale and enjoyment of food and beverages while seated at tables without amplification of music or other sound causing a nuisance to occupants of nearby residential properties.

Section 3: Unpermitted Outdoor Events Prohibited. Outdoor Events at commercial venues, including bars and restaurants, are prohibited, unless the owner or operator of such venue obtains a permit for such event consistent with the requirements of this Local Law.

Section 4: Application. At least twenty (20) business days before a proposed Outdoor Event, the owner or operator of the commercial venue shall submit an application to the Village Code Enforcement Officer for a permit for such event. The application shall include the following information:

A. A description of the proposed Outdoor Event, which shall include:

1. The date and time of the proposed Outdoor Event;

2. The anticipated number of attendees;
 3. Whether the proposed Outdoor Event will feature outdoor music, food, games, and/or beverage service;
 4. A description of procedures, mechanisms, and resources that will be used to prevent underage individuals from obtaining alcoholic beverages from bars or beverage stations, including those situated outdoors;
 5. Whether the proposed Outdoor Event will have a sufficient number of bathrooms (indoor and outdoor) available for the anticipated number of attendees, consistent with this local law; and
 6. A sketch of the location of event features, which shall include, but is not limited to: space delineated for outdoor entertainment, bar or beverage service stations, bathrooms, portable toilets, dance floors, games, tents, any onsite attendee parking, onsite parking for contractors or entertainment, signs, any necessary equipment storage areas, the location of the venue's liquor license, and other features as may be required at the discretion of the Code Enforcement Officer or Village Board.
- B. A copy of the establishment's liquor license, including a copy of the original application to the State Liquor Authority (SLA)
- C. Name and contact information for venue personnel who will be onsite for the duration of the Outdoor Event.
- D. An attestation from the owner and/or operator that he or she agrees to comply with the requirements of this Local Law and the terms/conditions of any Outdoor Event permit issued hereunder.

A Certificate of Insurance naming the Village of Kenmore as additional insured and in accord with requirements in effect and available with the Village.

Section 5: Application and Appeal Procedures. Within five (5) business days of receipt of an Outdoor Event application, the Code Enforcement Officer shall approve, deny, or approve with conditions, the Outdoor Event application. Any approval must comply with the requirements of this Local Law. Any denial shall include a written explanation for the denial. Should the application be denied or approved with conditions, the applicant shall have the right to appeal such determination to the Village Board of Trustees or its designee within two (2) business days of such determination. Any appeal must include a basis for why the application was improperly denied. Upon receipt of an appeal, the Village Board of Trustees or its designee shall determine, within five (5) business days, whether the application was properly denied and/or conditions issued with an approval were reasonable. Prior to any appeal decision, the Village Board or its designee may request additional information, as necessary to determine whether the appeal should be granted or denied. Any denial of such appeal shall include a description of reasons for the denial.

Section 6: Permit Issuance and Display: Upon approval of an application, the Code Enforcement Officer shall issue an Outdoor Event permit to the applicant. Such permit shall specify relevant conditions, including, but not limited to, requirements associated with:

- A. The number of permitted attendees at any given time.
- B. The number of bathrooms or outdoor restroom facilities.
- C. Off-street parking.
- D. Outdoor Event Hours (12:00 p.m. to 9:00 p.m.).
- E. The sale of beer, wine, or liquor.

Any permit issued in connection with an Outdoor Event shall be conspicuously displayed next to the venue's liquor license at least three (3) hours before the Outdoor Event begins and until at least three (3) hours after the Outdoor Event ends.

Section 7: Requirements for Outdoor Events.

- A. No more than ten (10) Outdoor Event permits shall be issued to any individual establishment per calendar year.
- B. Outdoor Events are permitted only within the hours of 12:00 p.m. to 9:00 p.m. Outside of these hours, outdoor music, food and/or beverage service, and games shall be prohibited.
- C. Pyrotechnics and fireworks are prohibited unless specially approved by the Village Code Enforcement Office.
- D. A sufficient number of bathrooms and/or equivalent outdoor restroom facilities shall be required for all Outdoor Events to accommodate the number of anticipated attendees. For every twenty-five (25) anticipated attendees, at least one (1) bathroom and/or outdoor restroom facility (*i.e.*, porta potty) shall be required.
- E. Tent. Any tent must be fire retardant and secured from wind or other weather conditions. Tents must be secured wholly on the applicant's property. Under no circumstances may any part of the tent be secured on the sidewalk or Village right of way. Where applicable, tents must comply with the requirements of the New York State Uniform Fire Prevention and Building Code.
- F. Music. All attempts will be used to minimize the transmittal of sound beyond the outdoor event location, including, but not limited to volume control, noise-muffling percussion, positioning DJ or band away from residential properties.

Section 8: Penalties. Any violation of this Chapter by any owner or operator shall

- A. First Violation: a fine of \$1,000 per day and no more than a fine of \$5,000 per week.

- B. Second Violation: for any violation which occurs within one (1) year of the first violation, a fine of no less than \$5,000 per day and no more than \$15,000 per week.
- C. Third Violation: for any violation which occurs within one (1) year of the second violation, a fine of no less than \$15,000 per day and no more than \$45,000 per week.
- D. This fine schedule shall be independently enforced for each property covered under this Chapter.
- E. Any violations resulting in fines under this Section of this Local Law that remain unpaid for a period of thirty (30) days shall be treated as real property tax liens and placed on the subject property for which the violation is issued. Any such liens shall be superior and shall have priority over all other liens on the property.
- F. The Village reserves the right to levy unpaid fines as liens against the subject property and direct Erie County to do the same.

Section 9: Severability. If any provision of this Chapter is for any reason held unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall remain in effect. Such decision shall not affect the remainder of this Chapter. The Village hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

Section 7: Effective Date. This Chapter shall be effective immediately upon filing with the Secretary of State.

Dated: _____, 2025
Kenmore, New York