

TOWNSHIP OF MAHWAH
2023 TEMPORARY OUTDOOR DINING
REQUIREMENTS

The following documentation includes:

- The Township of Mahwah Council Resolution #183-23 for Outdoor Dining
- The Township of Mahwah Temporary Outdoor Dining Permit Application

Please submit the complete **Application** for review by Township Officials. Once reviewed and approved, a Permit Certificate will be sent to be posted in Public view.

RESOLUTION

TOWNSHIP OF MAHWAH
475 CORPORATE DRIVE
MAHWAH, NJ 07430

RESOLUTION #183-23
DATE: May 1, 2023

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma		✓	✓			
Bolan			✓			
Donigian			✓			
Ferguson					✓	
Paz	✓		✓			
Wong			✓			
May			✓			

RESOLUTION TO PROVIDE CONTINUED SUPPORT OF LOCAL BUSINESSES BY MEMORIALIZING UPDATED PROCEDURES FOR EXPANDED OUTDOOR DINING IN ACCORDANCE WITH P.L.2021, C.15 AS AMENDED

WHEREAS, the Township of Mahwah continues to support local food and beverage establishments in recovering from severe hardships incurred from the COVID-19 pandemic; and

WHEREAS, in 2020, Governor Murphy temporarily authorized restaurants, bars and other food and beverage establishments to provide in-person service at designated outdoor dining areas in accordance with State law; and

WHEREAS, the Township Council immediately eased the Township's regulations to help food and beverage establishments successfully adapt their operations in accordance with the law; and

WHEREAS, on February 5, 2021, Governor Murphy signed into law P.L.2021, C.15, which established formal procedures for municipal review and approval of outside dining applications, expanded the potential outdoor dining footprint for establishments, allowed the New Jersey Division of Alcoholic Beverage Control ("ABC") to issue certain permits; and extended the expiration date of the ABC's COVID-19 Expansion Permits to November 30, 2022 or the date on which indoor dining resumed without capacity limitations pursuant to State law, whichever was later; and

WHEREAS, on March 4, 2021, the Township Council adopted Resolution 134-21, which memorialized the expanded outdoor dining procedures set forth in P.L.2021, C.15; and

WHEREAS, indoor dining resumed without capacity limitations on May 7, 2021 pursuant to State law and accordingly, the expiration date of the ABC COVID-19 Expansion Permits remained extended until November 30, 2022; and

WHEREAS, on June 17, 2021, the Township Council adopted Resolution 232-21, which amended Resolution 134-21 to regulate the days and hours of live performances, to protect the health, safety and welfare of the public; and

WHEREAS, pursuant to its authority under P.L.2021, c.15, on May 5, 2022 the Township Council adopted Resolution 173-22 to prohibit outdoor live performances and update procedures and requirements for outdoor dining through November 30, 2022; and

WHEREAS, on August 3, 2022 the Governor signed into law S2364, which amended P.L. 2021, c.15 to, among other things, extend outdoor dining through November 30, 2024; and

WHEREAS, the Township now desires to memorialize updated procedures and requirements in accordance with P.L. 2021, c.15, as amended.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Mahwah that:

1. This Resolution incorporates by reference P.L.2021, C.15, as amended, in its entirety, and supersedes Township Resolution 173-22.
2. Upon first obtaining a Temporary Outdoor Dining Permit from the Township, the owner or operator of a restaurant, bar, distillery or brewery may use outdoor spaces as an extension of their business premises for the purpose of conducting sales of food and beverages, in accordance with P.L.2021, C.15.
3. The Temporary Outdoor Dining Permit shall be subject to the requirements set forth in P.L.2021, C.15, including, but not limited to, the following:
 - A. Outdoor Space means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, otherwise in the lawful control of the owner or operator of the business premises, or any space which is designated by a municipality or county for outdoor dining pursuant to P.L.2021, c.15.
 - B. Public Sidewalk means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises, or a portion thereof.
 - C. No person or entity shall operate outside dining without a Temporary Outdoor Dining Permit from the Township of Mahwah. A permit is valid from the date of

issuance, but outdoor dining is limited to the period of April 1, 2023 through November 30, 2023.

- D. Applicants shall apply to the Township Zoning Officer for permit approval in accordance with the provisions of this resolution and P.L.2021, c.15. The Zoning Officer shall provide a copy of each application to the Chief of Police, Fire Official and Health Officer for their recommendations prior to issuance of the permit.
- E. The application shall include each of the following:
 - (1) The written consent of the owner of the location of the Outdoor Space to be used for outdoor dining, if other than the applicant; and
 - (2) A plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces; and
 - (3) Current licensed capacity; and
 - (4) A plan for the control of litter, the removal of storage of garbage, and the cleaning of fixtures and grounds; and
 - (5) With respect to losses arising solely from the operation of the outdoor dining, an insurance certificate naming the Township as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,00.00, and an indemnification agreement with the Township.
- F. If the applicant proposes to use the premises' parking lot for outdoor dining, not more than 75% of the parking lot's total parking spaces may be used for outdoor dining, unless the parking lot contains fewer than eight parking spaces. At least one handicapped parking space must be maintained.
- G. Applicants may additionally or separately apply to use contiguous public sidewalks as an extension of the premises by the same application process set forth above and as established by P.L.2021, c.15. Such sidewalk use is conditioned upon the owner or operator (1) maintaining a 4-foot-wide walking path at all times; and (2) removing all fixtures from the sidewalk at the end of each day.
- H. Outdoor dining is not permitted in fire lanes.
- I. The Zoning Officer shall issue approval within 15 business days of the application being deemed complete, provided the applicant meets and abides by all qualifications and requirements of P.L.2021, c.15, with the exception that the

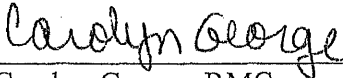
Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit, that is not otherwise directly superseded by the P.L.2021, c.15 or Special Ruling No. 2020-10. An application under this provision shall not be considered a variance under the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq.

- J. The Zoning Officer may deny, revoke, or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of this actor any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or to the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the ABC, and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the ABC related to the division's enforcement of any law or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.
- K. An appeal to any approval, denial, revocation, or suspension may be filed through the Township Clerk in accordance with P.L.2021, c.15.
- L. Any establishment that has previously received approval by resolution of the Planning Board or Zoning Board of Adjustment for outside seating is exempt from the above permitting requirement. This exemption applies only for the specified number of seats permitted in the approving resolution.
- M. Permittees must follow, maintain, and enforce protocols promulgated by the Commissioner of Health or Executive Order of the Governor in response to COVID-19 concerning social distance and use of personal protective equipment during the period those protocols are in effect.
- N. The Township reserves the right to order the temporary suspension of outdoor dining and order the temporary removal of all fixtures from public sidewalks due to road or utility construction, predicted high winds or severe weather, predicted sidewalk use for construction, severe weather, snow/ice removal or other public emergency that may arise.
- O. The Township reserves the right to limit the hours of outdoor service and live performances in accordance with P.L.2021, c.15. Live performances, including musical performances, and the playing or projection of any content from a recording, streaming service or television, cable or internet broadcasting service in outdoor spaces or on public sidewalks are governed by Ordinance 1981 adopted on August 11, 2022.
- P. All other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages shall apply.

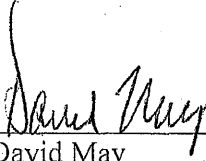
- Q. There shall be no fee for a Temporary Outdoor Dining Permit.
- R. In accordance with P.L.2021, c.15, the Zoning Officer may revoke or temporarily suspend the permit of any permittee that violates this provision.
- S. Notwithstanding any provision of law to the contrary, while P.L.2021, c.15 is in effect, the installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality pursuant to P.L.2021, c.15 shall be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code. The permitted use of tents, canopies, umbrellas, tables, chairs, and other fixtures allowed by this section shall be limited to April 1, 2023 through the close of business on November 30, 2023. Any administrative rule or regulation, with the exception of those applicable pursuant to the Uniform Construction Code and Uniform Fire Code, which limits the use of tents, canopies, umbrellas, tables, chairs and other fixtures to 180 days or less during the time frame encompassing the April 1, 2023 through the close of business on November 30, 2023 shall be inapplicable during the time that P.L.2021, c.15 is in effect.

CERTIFICATION

I hereby certify that this resolution consisting of five (5) page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on the 1st day of May, 2023.



Carolyn George, RMC
Municipal Clerk



David May
Council President

Date:

Permit #

TOWNSHIP OF MAHWAH

TEMPORARY OUTDOOR DINING

Permit Application
NO Fees are required

As per Resolution #183-23 and in accordance with the Governor's Executive Order No. 15 and subsequent law PL.2021, C15 (as amended by Law S2364) the following Sections I-V shall be completed by the applicant and approved by the Township of Mahwah prior to all temporary outdoor dining.

I. Property Information:

Business Name:		
Address:		
Block:	Lot:	Zone:

II. Property Owner Information:

Name:	
Address:	
Telephone (H):	Cell:
Owner's Consent Signature:	

III. Applicant Information:

Name:	Email:
Address:	Cell:
Telephone: (H)	

IV. Description of Temporary Outdoor Dining/Retail (use separate page if needed):

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V. Checklist for Permit Application:

1. Normal Permitted Capacity of Indoor Dining	
2. Hours of Operation	
3. Applicant previously obtained and submitted a COVID-19 Expansion Permit to allow licenses to expand the sale and service of alcoholic beverages onto areas adjacent to or contiguous with the licensed premises. If this is your first time applying, a copy of the Expansion Permit shall be attached to this application if applicable.	<input type="checkbox"/> Yes <input type="checkbox"/> No Permit No: _____ <input type="checkbox"/> N/A
4. The following items must be submitted with this application:	
A. Survey, sketch or plot plan showing location, size and number of tables and seating area (no tents with sides will be permitted). B. Diagram of outdoor seating arrangements with measurements. C. If applicable, temporary lighting plan. (Electrical inspection may be required) D. If to be located within a parking lot or sidewalk, temporary public safety plan. E. Insurance Certificate naming the Township as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000.	

Specific COVID-19 Operation Conditions of this permit

By submitting its certification below, the applicant acknowledges the following:

1. Applicant has reviewed P.L. 2021, C15 (as amended by Law S2364), which was signed into law;
2. In addition to all the requirements of applicable law for retail dining establishments, the applicant has the legal obligation to comply with all applicable directives required in the Law as a condition of its receipt of this permit to operate outdoor dining services;
3. Applicant understands and accepts the fact that its failure to fully comply with all of the requirements of the New Outdoor Dining Law shall result in the Township's summarily revoking or suspending this permit until full compliance is deemed to have been achieved by the Township Health Department.
4. Applicant's failure to comply with each and every aspect of the approved/permitted plan for outdoor dining, shall subject the applicant to the Township's revocation or suspension of this permit until full compliance has been deemed to have been achieved.

CERTIFICATION:

I certify that I have personally examined and am familiar with all of the information contained in this permit application including any attachments. I further certify that if any of the information or statements that I have supplied are willfully false, inaccurate, or incomplete that I am subject to punishment.

Signature of Applicant

Date

FOR OFFICIAL USE ONLY		
Department Review	Approvals	Comments
Fire Official _____ Date <i>(if required)</i>	Yes No <input type="checkbox"/> <input type="checkbox"/> NA <input type="checkbox"/>	
Health Officer _____ Date	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Police Department _____ Date <i>(if required)</i>	Yes No <input type="checkbox"/> <input type="checkbox"/> NA <input type="checkbox"/>	
Electrical Inspector _____ Date <i>(if required)</i>	Yes No <input type="checkbox"/> <input type="checkbox"/> N/A <input type="checkbox"/>	
Zoning Officer _____ Date	Yes No <input type="checkbox"/> <input type="checkbox"/>	