

LOCAL LAW NO. 3 of 2020

A Local Law known and cited as Amendment to Town Code Regarding Temporary Outdoor Dining Permits

Be it enacted by the Town Board of the Town of Ossining as follows:

SECTION 1. Purpose and Intent. In light of the COVID-19 pandemic and the restrictions related to social distancing and decreasing maximum capacity of indoor spaces in an effort to reduce the risk of spread of the virus, the Town Board adopted a local law to establish a Temporary Outdoor Dining Permit process for Fully Enclosed Eating and Drinking Establishments and Eating and Drinking Establishments uses. The local law originally prohibited enclosed tents, but as the weather becomes cooler and the restrictions on restaurant occupancy remain in place with no indication of being relaxed in the near future, the Town Board recognizes that allowing enclosed tents and heating devices on a temporary basis will create additional seating in order to allow these establishments to serve their patrons in a safe environment and also generate the level of business necessary to remain viable. The Town Board also recognizes that other nearby municipalities are allowing enclosed tents and if the Town does not do so also it could hurt local businesses as diners will instead patronize the establishments that do provide this option. As with the original local law establishing the temporary outdoor dining permit process, the combined indoor and outdoor dining capacity will not be able to exceed the maximum permitted indoor capacity without the occupancy restrictions. The Building Inspector will also ensure any heating devices comply with all building and fire code requirements.

SECTION 2. Be it enacted by the Town Board of the Town of Ossining as follows (Language in **Bold and Underlined** to be added, language in ~~**Strikethrough and bold and underlined**~~ to be deleted):

SECTION 3. Amending Existing Provision. Chapter 136 (entitled “Outdoor Permit, Temporary”), Article I (entitled “Fully Enclosed Eating and Drinking Establishments and Eating and Drinking Establishments”), Section 1 (entitled “Temporary Outdoor Dining Permit”) of the Town Code is hereby amended as follows:

- A. Upon application, the Building Inspector is hereby authorized to issue a permit to remain in effect for a period not to exceed 45 days to a legally-operating Fully Enclosed Eating and Drinking Establishment or Eating and Drinking Establishment use as set forth in the Town of Ossining Zoning Code, to provide outdoor seating for patrons on the Establishment’s private property upon the Establishment complying with all of the requirements and conditions set forth in Section 136-2 to the reasonable satisfaction of the Building Inspector. The Building Inspector may grant the permit for less than 45 days in his reasonable discretion based upon the circumstances warranting the granting of the permit.
- B. An application for the first Temporary Outdoor Dining Permit must be made at least 10 days in advance of the Establishment seeking to utilize outdoor

dining. Renewal applications for subsequent permits must be issued 5 days prior to the active permit expiring. If the Establishment fails to timely apply for a permit or a renewal, the Establishment must cease any and all operations authorized by the permit if and until a new permit is issued.

- C. This permit only authorizes outdoor seating, not congregating or standing outside. An open-air tent **without sides or flaps** may be provided to cover the area of an outdoor seating ~~but the tent shall not have sides or flaps such that the outdoor dining area will be enclosed.~~ **When the Building Inspector reasonably believes it is appropriate and necessary based upon information provided by the applicant, the Building Inspector may, in his discretion, allow the Establishment to have a tent that is enclosed with sides or flaps and heating devices, provided the heating devices are portable and comply with all applicable safety regulations, including but not limited to the Uniform Fire Prevention and Building Code.**

SECTION 3. Validity. The invalidity of any provision of this Local Law shall not affect the validity of any other portion of this Local Law which can be given effect without such invalid provision.

SECTION 4. Effective Date. This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

BY ORDER OF THE TOWN BOARD OF
THE TOWN OF OSSINING