

**LOCAL LAW NO. \_\_ of 2020**

A Local Law known and cited as 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, there has been an increased focus on operating outdoors and in the open air to the extent possible. This has come to the Town Board's attention specifically in the context of Fully Enclosed Eating and Drinking Establishments and Eating and Drinking Establishments uses in the Zoning Code, where the establishments are required to reduce their maximum indoor occupancy and have sought to create outdoor seating in order to serve their patrons in a safe environment and also generate the level of business necessary to remain viable. This local law creates a temporary permitting process to allow for such outdoor uses under appropriate circumstances when the establishment can demonstrate that due to a risk to public health, safety and welfare, regardless of whether it is specifically related to the COVID-19 pandemic, the establishment cannot utilize all of its permitted indoor occupancy space to accommodate its designated capacity.

**SECTION 2.** A new chapter, Chapter 136, shall be added to the Town Code entitled "Outdoor Permit, Temporary" and shall read as follows:

Article 1. Fully Enclosed Eating and Drinking Establishments and Eating and Drinking Establishments

Section 136-1. Temporary Outdoor Dining Permit

- 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.

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July 31, 2020

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- C. This permit only authorizes outdoor seating, not congregating or standing outside. An open-air tent 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.

#### Section 136-2. Requirements for Temporary Outdoor Dining Permit

In its application to the Building Inspector for a Temporary Outdoor Dining Permit, the Establishment shall include the following information:

- A. Certificate of Occupancy or other documentation demonstrating that the Establishment is legally operating within the Town
- B. An explanation of why, due to a risk to public health, safety and welfare, the Establishment cannot utilize any or all of the designated indoor space for the service of patrons, such that there is a need to provide outdoor dining.
- C. A plan showing where the seating will be provided both indoors and outdoors, which plan must show a potential seating capacity not to exceed the maximum permissible indoor capacity but for the risk to public health, safety and welfare that precludes the Establishment from utilizing any or all of the designated indoor space for the service of patrons.
- D. If seating is going to be provided in a designated parking area, a plan showing vehicular and pedestrian access, internal vehicular circulation and the number of parking spaces available for patrons to demonstrate, to the reasonable satisfaction of the Building Inspector, sufficient parking on the site.
- E. Any other information the Building Inspector determines to be reasonably necessary.

#### Section 136-3. Compliance with All Other Laws

Except to the extent stated herein, the Establishment shall be required to comply with all other applicable Federal, State and Local laws, rules, regulations and executive orders, including but not limited to, the Uniform Fire Prevention and Building Code, New York State Department of Health Regulations, New York State Liquor Authority Regulations and the Town Code.

#### Section 136-4. Building Inspector Authority

- A. The Building Inspector is authorized to review applications and issue permits only when in his reasonable opinion all applicable conditions and requirements of this Article have been satisfied.
- B. Upon the Building Inspector's determination that all applicable conditions and requirements of this Article have been satisfied, the Building Inspector shall issue the Temporary Outdoor Dining Permit without any further review or approval required by any Town official, department and/or board.

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- C. In the event the Building Inspector determines that after a permit is issued the Establishment is not complying with the conditions and requirements of this Article, the Building Inspector may immediately revoke the Temporary Outdoor Dining Permit and the Establishment shall cease all activity authorized by the Temporary Outdoor Permit immediately.
- D. In receiving the Temporary Outdoor Dining Permit, the Establishment authorizes the Building Inspector, and any other designated Town official or employee, to enter the property and the interior of the premises in order to ensure compliance with this Article.
- E. Issuance of one Temporary Outdoor Dining Permit does not require the Building Inspector to issue subsequent permits. With each Temporary Outdoor Dining Permit application or renewal application, the Establishment is required to demonstrate compliance with all conditions and requirements of this Article.

#### Section 136-4. Site Plan Approval

The Establishment may apply for and, upon compliance with this Article, obtain an unrestricted number of Temporary Outdoor Dining Permits for a 12-month period. However, if in the course of the 12-month period from when the Establishment received its first Temporary Outdoor Dining Permit, the Establishment has applied for and/or received 5 or more Temporary Outdoor Dining Permits, at the end of the 12-month period from when the Establishment received its first Temporary Outdoor Dining Permit, if the Establishment wishes to continue outdoor dining on the premises it must apply to the Planning Board for Site Plan Approval or Amended Site Plan Approval, as the case may be.

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#### Section 136-5. Penalties for Offenses

A violation of any provision or requirement of this Chapter or a violation of any statement, plan, application, permit or certificate required, issued and/or approved under the provisions of this Chapter, or of the terms or conditions contained therein, shall be considered an offense punishable by a fine of not less than \$100 nor more than \$5,000 or imprisonment for a period not to exceed 15 days, for both such fine and imprisonment. Each and every day that any such violation continues after the specified time to abate shall constitute a separate offense.

**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