

LOCAL LAW NO. __ of 2021

A Local Law known and cited as Amendment to Chapter 136 of the 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 response to the COVID-19 pandemic and the related indoor occupancy limitations and the recommendation that people remain outside as much as possible, in August 2020 the Town Board enacted Chapter 136 of the Town Code entitled Temporary Outdoor Permits. The Town Board authorized legally-operating Fully Enclosed Eating and Drinking Establishment uses that could demonstrate why, due to a risk to public health, safety and welfare the Establishment cannot utilize any or all of the designated indoor space, to temporarily implement outdoor dining on their property without having to obtain site plan approval, which would otherwise be required for such outdoor dining. Certain establishments within the Town have utilized this permitting process over the past year. On June 24, 2021, the Governor allowed the State of Emergency related to COVID-19 to expire along with any limitations on indoor dining occupancy. On July 7, 2021, the Governor signed legislation (S.6353-A/A.7733) that extended the provisions of Executive Order 202.38 to allow the State Liquor Authority to permit establishments to have outdoor dining on nearby municipal property or other private property for a period of one year in an effort to assist restaurants in recovering from the economic impacts of the COVID-19 pandemic. In light of this action taken at the State level, the unique and unprecedented circumstances of the COVID-19 pandemic, combined with recently increased rate of infection due to new variants, the Town Board wishes to extend the temporary outdoor permit process allowed in Chapter 136 of the Town Code to be consistent with State law.

SECTION 2. Chapter 136 of the Town Code (entitled “Outdoor Permit, Temporary”), section 136-5 (entitled “Site Plan Approval”) shall be amended to read as follows (new language in **bold and underline**):

Section 136-5. Site Plan Approval

- A.** 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.
- B.** **In an effort to assist eating and drinking establishments in recovering from the financial impacts of the COVID-19 pandemic, the State enacted legislation (S.6353-A/A.7733) that enables those businesses licensed by the State Liquor Authority to sell alcohol for on-site consumption to use**

municipal or other nearby private space for outdoor dining until July 7, 2022 (“State Law”). In order to be consistent with State policy, the Town Board wishes to modify the requirements for local Establishments to obtain Temporary Outdoor Dining Permits as a result of the COVID-19 pandemic, subject to the following:

1. In order to be eligible for the provisions set forth in this Subsection B, the Establishment must have duly applied for and received at least one Temporary Outdoor Dining Permit as a result of the COVID-19 pandemic prior to July 7, 2021.
2. The Establishment may continue to obtain Temporary Outdoor Dining Permits until July 7, 2022.
3. All the provisions of this Article shall continue to apply and the Establishment must comply with all of the requirements of this Article in order to be entitled to a Temporary Outdoor Dining Permit, except for the following:
 - i. Section 136-5(A) to the extent it limits the number of permits that can be issued in a 12-month period without being required to obtain Site Plan Approval or Amended Site Plan Approval, as the case may be; and
 - ii. Section 136-2(B) to the extent it requires the Establishment to explain why, due to the risk to public health, safety and welfare, the establishment cannot utilize any or all of the designated indoor space for the service of patrons.
4. Effective July 8, 2022, any Establishment that has obtained at least five Temporary Outdoor Dining Permits during any 12-month period may only continue to have outdoor dining if it has obtained Site Plan Approval or Amended Site Plan Approval, as the case may be, from the Planning Board prior to July 8, 2022. No further Temporary Outdoor Dining Permits, renewals or extensions may be issued by the Building Inspector after July 8, 2022 without compliance with this subsection B(4) and the Zoning Code. In issuing any Temporary Outdoor Dining Permits or extensions pursuant to this Subsection B, the Building Inspector shall notify the Establishment of the requirements set forth in Subsection B(4).

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