

TOWN OF WAPPINGER



**Director of Strategic Planning and
Municipal Codes**

Barbara Roberti – Ext. 128

Deputy Zoning Administrator

Judith Subrize- Ext. 122

**ZONING DEPARTMENT
20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590-0324
(845) 297-1373
FAX: (845) 297-0579**

**Outdoor seating fee per
year:**

\$150 for the first six seats or
portion thereof, plus \$25 for
each additional seat
(up to 16 seats maximum).

Dear Business Owner:

The Town of Wappinger passed Local Law #1-2014 on March 24, 2014 regarding outdoor seating associated with commercial businesses. The law is Section 240-36.2 of the Town of Wappinger Zoning Code.

With spring having arrived and outdoor dining upon us, we are requiring that all businesses that plan to have tables and chairs outside open a permit prior to placing the chairs and tables outside for use this season.

I have enclosed in addition to the Zoning Code, a permit application and the associated fees required. Failure to open a permit may result in legal action. Please note that no outdoor cooking is allowed without a building permit, health department approval, and possibly planning board approval.

As Zoning Administrator, I am authorized to grant an outdoor seating permit up to 16 seats as long as the area selected meets the criteria of Section 240-36.2. The Fire Inspector will also review the permit for safety as stated in the local law.

We appreciate everyone working with us to ensure that all residents enjoy your establishment in a safe and healthy manor.

Please be aware that if a permit is not applied for an enforcement action may take place and a \$250.00 Legalization fee will be imposed.

Sincerely,

Barbara Roberti
Director of Strategic Planning & Municipal Codes

§ 240-36.2. Outdoor seating for existing food service establishments. [Added 3-24-2014 by L.L. No. 1-2014; amended 7-13-2020 by L.L. No. 2-2020]

A.

Purpose. It is the purpose of this section to establish the circumstances and conditions pursuant to which existing restaurants or other food service establishments shall be authorized to provide outdoor tables and seating (hereinafter "outdoor seating") for patron use on the same parcel on which the establishment is located. Outdoor seating or "al fresco dining" has become very popular in this community, and indeed in this country.

Consequently, in recent years, the Town's Zoning and Building Departments have received numerous requests from existing restaurants and other food service establishments to permit outdoor seating. In some instances, many of these establishments have simply placed tables and outdoor seating adjacent to their establishments without obtaining requisite zoning approvals as required by the Town Zoning Code. It is the intention of this section to specifically identify the criteria, standards and conditions pursuant to which an existing restaurant or other food service establishment may obtain permission for placement of outdoor tables and seating for patron use. Subject to the following provisions, authorization for outdoor seating for 16 or fewer patrons may be approved by the Zoning Administrator upon concurrence and review of the proposed seating by the Town's Fire Inspector or similar such official. Except as provided in this section, all other requests for outdoor seating shall require site development plan approval pursuant to Article IX of the Town's Zoning Code.

B.

Requirements. The Zoning Administrator, upon review and approval of the Town's Fire Inspector or similar such official, is hereby authorized to approve outdoor seating for 16 or fewer patrons on the same lot as the restaurant or other food service establishment on the following conditions:

(1)

The request for authorization for such outdoor seating shall be made in writing and signed by the owner of the restaurant or other food service establishment and shall contain a scaled drawing of the location and placement of the proposed outdoor seating, service area(s), pedestrian routing, outdoor lighting, ingress and egress, landscaping, barriers for protection as per Subsection B(11) below, and any weather protection such as a tent which may be proposed.

(2)

The proposed outdoor seating shall be for 16 or fewer patrons.

(3)

The outdoor seating shall be placed/located on the same lot as the restaurant or other food service establishment, and such outdoor seating shall be located adjacent to the restaurant or other food service establishment, but shall not be located within parking areas.

(4)

The scaled drawing shall be reviewed by the Town's Fire Inspector or similar such official for determination of compliance with the New York State Uniform Code or the New York State Fire Code for compliance with safety provisions.

(5)

The outdoor seating shall only be permitted on sidewalks, pavement, landscaped areas, or other areas consisting of natural materials providing a level, stable base for such outdoor seating.

(6)

Such outdoor seating shall be prohibited on platforms.

(7)

Such outdoor seating, and any related appurtenances such as tables, chairs, umbrellas, planters, dividers, and related outdoor ornaments, shall be placed and/or located so as to create at least three feet of unimpeded pedestrian sidewalk clearance, shall not be placed/located in parking areas and shall be placed/located so as not to obstruct doorways or means of ingress and egress or otherwise impede or obstruct designated fire lanes.

(8)

All food and beverages served by the restaurant or other food service establishments shall be sold and dispensed from the interior of the establishment, and a certificate from the Dutchess County Department of Health which authorizes outdoor dining shall be submitted to the Town's Zoning Administrator prior to issuance of any certificate of occupancy or certificate of compliance as hereinafter provided. In the event the establishment is licensed to serve alcoholic beverages, the establishment shall be required to obtain all applicable approvals from the New York State Liquor Authority and/or the New York State Alcoholic Beverage Control Board (SLA and ABC), and proof of such approvals shall also be submitted to the Town's Zoning Administrator prior to issuance of any certificate of occupancy or certificate of compliance.

(9)

The Zoning Administrator is expressly prohibited from authorizing any outdoor music or sound amplification in connection with any approval for outdoor seating under this section.

(10)

Upon review and approval by the Zoning Administrator and the Town Fire Inspector as stated above, the Town's Code Enforcement Officials shall be then authorized to issue a building permit for such outdoor seating, and upon verification of construction compliance with the conditions of approval, a certificate of occupancy and/or certificate of compliance shall be issued to authorize such outdoor seating.

(11)

If such outdoor seating is proposed within 10 feet of any existing or proposed roadway, driveway or parking area, substantial concrete or equivalent safety barriers shall be provided between the vehicular element(s) and such outdoor seating.

(12)

The applicant shall provide evidence of insurance for the establishment which includes the outdoor dining.

C.

Violations. The failure to cure a violation of any permit condition or requirement of this section within five days of the issuance of a notice to cure shall subject the permittee to a fine of \$300; provided, however, that if the violation is one which may imminently endanger the public health, safety or welfare, five days' notice to cure shall not be required.

D.

Consultation. In determining the criteria and conditions required for the issuance of each permit, the Zoning Administrator may consult with Town departments and staff, including but not limited to the Highway Department, Fire Inspector, Building Inspector, Town Engineer and Town Planner, as well as county, state and federal agencies.

E.

Other requirements. The holders of permits for outside seating are subject to and responsible for compliance with all local, county, state and federal codes, laws, rules, regulations, and executive orders and guidance, including but not limited to those of the Governor, the New York State Liquor Authority, Dutchess County and the New York State Department of State.

F.

Any proposed outdoor seating which does not comply with the requirements of this section shall be subject to the review and approval of the Planning Board, as applicable.

TOWN OF WAPPINGER ZONING DEPARTMENT
20 Middlebush Road
Wappinger Falls, New York 12590
Telephone: 845-297-1373 Fax: 845-297-0579
<http://www.townofwappingerny.gov>

OUTDOOR SEATING PERMIT APPLICATION

Name of Applicant: _____

Project Site Address: _____

Applicant Address: _____

Tel #: _____ Cell#: _____ Email: _____

Point of Contact: _____ Cell #: _____

Name of Owner of Building/Land: _____

Address: _____

Tel #: _____ Cell: _____ Email: _____

Health Department #: _____

Do you wish to serve alcoholic beverages outdoors: YES NO

Liquor License #: _____ Must follow SLA rules.

Current Hours of Operation: _____

Location of outdoor Seating: _____

Do you wish to have a tent: Yes: No:

**If yes, a Tent Permit is required from the building department.

Occupancy Calculation:

Legal Occupancy Limit: _____

***Combined Indoor and Outdoor occupancy cannot exceed legal occupancy limit per the Certificate of Occupancy issues by the Town of Wappinger.

Will lighting be added: Yes No

**If yes, an Electrical Permit from the Building Department is required.

NARRATIVE DESCRIPTION:

Describe your plan for the storage and removal of exterior trash and litter:

Describe your plan for providing restrooms for patrons including ADA compliance:

Describe your plan for accommodating waiting patrons:

SITE PLAN:

Indicate and label the following on the plan:

* **Detail** the proposed outdoor seating area and label the location, size and number of tables and chairs, or any items to be part of the outdoor seating and location of unobstructed space permitting free passage of pedestrian traffic around and through the outdoor seating area.

* **Detail** vehicular access: entrances, exits, and vehicular flow must be labeled. Indicate accessible parking, curbside pick-up area, and delivery vehicle locations. Depending on your location you may also want to provide parking for patrons.

* **Detail** the location of trees, fire hydrants, utility poles, street light poles, parking meters, bus shelters, trash receptacles and any other obstructions or other permanent street fixtures, either existing or proposed, within the outdoor seating area.

* **Include** any doors leading from the establishment or abutting buildings.

***Detail** barricade type and placement, if applicable.

***Detail** location of tent, if applicable.

* IF THERE ARE QUESTIONS OR SPECIAL CIRCUMSTANCES, PLEASE CONTACT THE BUILDING DEPARTMENT.

Required Documents to be submitted:

1. Permit application
 2. Narrative description
 3. Site Plan
 4. Proof of landlord permission for outdoor seating
 5. Certificate of Insurance for use of public/private property for outdoor seating and/or the service and consumption of alcohol
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Permit Requirements and Guidelines

- All tents require building permits and inspection.
- Outdoor seating must be separated from vehicles and a barrier must be provided.

Signature and Hold Harmless Agreement

Applicant agrees to defend the Town from and against any and all claims, suits, or actions for death or injury to persons or damage to property brought against the Town arising from any alleged claims, acts or omissions in connection with this Permit, whether or not suit is filed, unless such claim, suit or cause of action was based solely on the negligence of the Town, its employees, agents or contractors. Additionally, applicant shall indemnify the Town for any sums the Town becomes obligated to pay as damages arising out of such circumstances, except to the extent such damages are due solely to the negligence of the Town, its employees, agents or contractors. The applicant is an authorized representative/agent for the establishment. Applicant acknowledges that the operation of the outdoor seating area will comply with all **New York State Building Code and Town of Wappinger Code.**

Applicant certifies that all information is accurate and correct.

Applicant agrees to allow Town staff to inspect outdoor seating at any time and comply with updates as required.

Owner/Manager Name: _____

Signature: _____

Date: _____ Phone #: _____

MUST CALL FOR INSPECTION FROM THE BUILDING DEPARTMENT BEFORE OPENING.
