

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

Resolution #134-21

Date: March 4, 2021

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma	X	X	X			
Bolan	X	X	X			
Ervin	X	X	X			
Ferguson	X	X	X			
Paz	X	X	X			
Wong	X	X	X			
May	X	X	X			

**RESOLUTION TO PROVIDE CONTINUED SUPPORT OF LOCAL BUSINESSES BY MEMORIALIZING PROCEDURES TO IMPLEMENT EXPANDED OUTDOOR DINING IN ACCORDANCE WITH NEWLY ENACTED P.L.2021, C.15**

**WHEREAS**, the Township of Mahwah steadfastly supports local businesses in recovering from the severe hardships incurred from the COVID-19 pandemic and ongoing state of emergency; and

**WHEREAS**, food and beverage establishments in the Township have been especially hard hit during this time; and

**WHEREAS**, on June 3, 2020, Governor Murphy issued Executive Order No. 150, which temporarily authorized restaurants, bars and other food and beverage establishments to provide in-person service at designated outdoor dining areas in accordance with Centers of Disease Control and Prevention and New Jersey Department of Health safeguards; and

**WHEREAS**, the Township Council immediately eased the Township's regulations in order to help food and beverage establishments successfully adapt their operations to the requirements of E.O. 150 and all other applicable law via the issuance of permits for outdoor dining; and

**WHEREAS**, on February 5, 2021, Governor Murphy signed into law P.L.2021, C.15 (S-3340 - First Reprint), which establishes formal procedures for municipal review and approval of outside dining applications, expands the potential outdoor dining footprint for establishments, and allows the New Jersey Division of Alcoholic Beverage Control ("ABC") to issue certain permits to sell products at seasonal farm markets; and

**WHEREAS**, the new law additionally extends the expiration date of the ABC's COVID-19 Expansion Permits issued pursuant to Special Ruling No. 2020-10 to November 30, 2022 or the date on which indoor dining resumes without capacity limitations pursuant to an executive order issued by the Governor, whichever is later; and

**WHEREAS**, the Township Council wishes to memorialize by resolution the updated procedures and requirements for outdoor dining, which will provide necessary support to the Township's food and beverage establishments.

**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 in its entirety and supersedes Township Resolution 226-20 adopted June 11, 2020.

2. Upon first having obtained a Temporary Outdoor Dining Permit from the Township to do so, the owner or operator of a restaurant, bar, distillery or brewery may use outdoor spaces which they own or lease and which are located either on, or adjacent to, their business premises, 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:

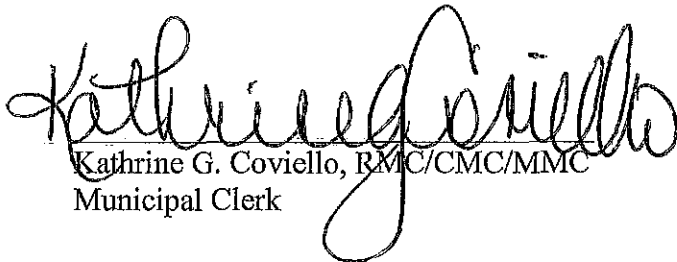
- A. Outdoor Space means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.
- 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 through November 30 of each calendar year.
- 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

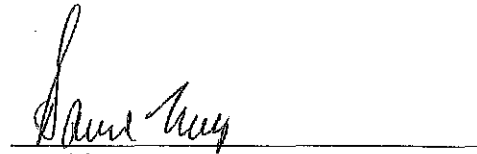
- (4) A plan for the control of litter, the removal of storage of garbage, and the cleaning of fixtures and grounds; and
  - (5) With respect to losses arising solely from the operation of the outdoor dining, an insurance certificate naming the Township as an additional insured, with general liability 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 and 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 act or 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.
- 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.

I hereby certify that this resolution consisting of one (1) page(s), was adopted at a meeting of the Township Council of the Township of Mahwah on the 4<sup>th</sup> day of March, 2021.

  
Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk

  
David May  
Council President

Date:

COVID-19 Permit #

**TOWNSHIP OF MAHWAH**

**COVID-19 TEMPORARY OUTDOOR DINING**

Permit Application  
**NO Fees are required**

As per Resolution #134-21 and in accordance with the Governor’s Executive Order No. 15 and subsequent law PL.2021, C15 (S-3340-First Reprint) 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:**

<b>1.</b> Normal Permitted Capacity of Indoor Dining	
<b>2.</b> Hours of Operation	
<b>3.</b> 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
<b>4.</b> The following items must be submitted with this application: <ul style="list-style-type: none"> <li>A. Survey, sketch or plot plan showing location, size and number of tables and seating area (no tents with sides will be permitted).</li> <li>B. Diagram of outdoor seating arrangements with measurements.</li> <li>C. If applicable, temporary lighting plan. (Electrical inspection may be required)</li> <li>D. If to be located within a parking lot or sidewalk, temporary public safety plan.</li> <li>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.</li> </ul>	



**MAHWAH HEALTH DEPARTMENT  
475 CORPORATE DRIVE MAHWAH, NJ 07430**

**2021 ATTESTATION BY OWNER OF FOOD/BEVERAGE ESTABLISHMENT  
FOR OUTDOOR DINING**

As per Municipal Resolution #134-21, adopted by the Mahwah Township Council on March 4, 2021 outdoor dining will be permitted to operate on or after April 1, 2021 through November 30, 2021.

Every facility wishing to offer outdoor dining must hold a valid 2021 Food Establishment license (issued by the Mahwah Health Department). Each facility must also certify that they will comply with the Outdoor Dining Standards as outlined in Executive Directive No. 20-019 as issued by the New Jersey State Department of Health.

The owner (or authorized individual) must complete the checklist below, sign the attestation (page 3) and submit a sketch of the proposed layout to the Mahwah Health Department no later than 3 business days prior to the anticipated opening date.

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**FOOD OR BEVERAGE ESTABLISHMENT PROTOCOLS:**

**Please initial that you will comply with each of the following protocols:**

- a) \_\_\_\_\_ I have posted signage at entrance stating that no one with a fever or symptoms of COVID-19 may enter the facility.
- b) \_\_\_\_\_ I will limit seating to eight (8) customers per table (unless from immediate family or same household) and arrange seating to achieve a minimum distance of six (6) feet between different parties.
- c) \_\_\_\_\_ I will rope off or otherwise mark tables, chairs and bar stools that are not to be used and cordon off any indoor or outdoor dance floor to prohibit its use by the public.
- d) \_\_\_\_\_ I will demarcate 6 feet of spacing in patron waiting areas.
- e) \_\_\_\_\_ I will provide physical guides, such as tape on floors, sidewalks and signage on walls to ensure that customers remain at least 6 feet apart in line for the restroom or waiting for seating.
- f) \_\_\_\_\_ I will eliminate self-service food options such as buffets and salad bars and will limit self-service drink stations to those that are able to be routinely and effectively cleaned & disinfected.
- g) \_\_\_\_\_ I will consider alternatives to paper/physical menus (whiteboards, online menus, etc.)
- h) \_\_\_\_\_ I will ensure all tables, chairs and any other shared items (menus, condiments, pens) are disinfected after each use.
- i) \_\_\_\_\_ I will consider using single use condiments and table items.
- j) \_\_\_\_\_ I will install physical barriers and partitions at cash registers, bars, host stands and other areas where maintaining physical distance of 6 feet is difficult and;
- k) \_\_\_\_\_ I will enforce 6 feet of physical distancing between workers and customers except at the moment of payment and/or when employees are servicing the table.
- l) \_\_\_\_\_ I will require infection control practices, such as regular handwashing, coughing and sneezing etiquette, and proper tissue usage and disposal.
- m) \_\_\_\_\_ I will require frequent sanitization of high touch areas like credit card machines, keypads and counters to which the public have access.
- n) \_\_\_\_\_ I will place conspicuous signage at the entrance to my facility alerting staff and customers they must maintain 6 feet of physical distance from each other.

## PROTOCOLS WITH RESPECT TO EMPLOYEES:

Please initial that you understand and will impose each of the following requirements upon your staff: \_\_\_\_\_.

- a. I will require employees to wash and/or sanitize their hands when entering the Facility.
- b. I will conduct daily health checks (e.g. temperature screening and/or symptom checking) of employees safely and respectfully, and in accordance with and applicable privacy laws and regulations.
- c. I will require employees with symptoms of COVID19- (fever, cough or shortness of breath) be sent home.
- d. I will require all employees to wear face coverings (except where doing so would inhibit the individual's health or if it would create an unsafe condition in which to operate equipment or execute a task (i.e. cooks that work near open flames).
- e. I will provide all employees with face covering and gloves free of charge.
- f. I will provide employees break time for repeated handwashing throughout the workday.
- g. I will provide sanitization materials, such as hand sanitizer and sanitizing wipes to staff.
- h. I will encourage employees to obtain COVID-19 testing.

## POLICIES WITH RESPECT TO CUSTOMERS:

Please initial that you will institute each of the following policies in accordance with Executive Order No. 150: \_\_\_\_\_.

- a. Inform customers of all required social distancing and hygiene practices;
- b. Encourage reservations for greater control of customer traffic/volume.
- c. Require customers to provide a phone number if making a reservation to facilitate contact tracing.
- d. Recommend customers wait in their cars or away from the food or beverage establishment while waiting for a table if outdoor wait area cannot accommodate social distancing.
- e. Alert customers via calls/text to limit touching and use of shared pagers/buzzers.
- f. Encourage the use of digital menus or other alternatives to physical or paper menus.
- g. Decline entry to the indoor portion of the establishment to a customer who is not wearing a face covering, unless the customer has a medical reason for not doing so or is a child under two years of age.
- h. Provide a hand sanitizer station for customers.

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- 1) Submit a diagram of the layout of your proposed outdoor dining facility **including all table placements, wait stations** and/or any changes to your food preparation and/or serving areas indicating approximate distances.
  - 2) Include a copy of your inclement weather policy along with this attestation. (Indoor capacity limits are not waived in the event of sudden, inclement weather). Detail any additional equipment that will be utilized to ensure food safety.
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**ATTESTATION BY (or on behalf of) OWNER:**

I, \_\_\_\_\_, being of full age, hereby certify that I represent  
Name

\_\_\_\_\_ in the capacity of \_\_\_\_\_.  
Name of Facility Title

I certify that I am duly authorized to make the representations contained herein on behalf of the named Facility and to bind the Facility thereto.

I attest that I have obtained all municipal approvals and permits before offering food and/or beverages for consumption in outdoor areas, and will operate this facility in full compliance with Executive Directive 20-019 as issued by the NJ State Department of Health.

I agree that if I have a confirmed case of COVID-19 among my employees I will immediately notify and cooperate with the Mahwah Health Department.

I am aware that if I make a willfully false statement, both the Facility and I may be liable and subject to penalties in accordance with applicable laws and/or licensure enforcement activity.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Phone

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For Health Department Use Only:

Reviewed/Approved by: \_\_\_\_\_ Date: \_\_\_\_\_