



**Township Council**

c/o Township Clerk  
Teaneck, NJ 07666

Meeting: 11/21/23 06:30 PM  
Department: Township Clerk  
Category: Amend  
DOC ID: 8073

**ORDINANCE (ID # 8073)**

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**Ordinance No. 40-2023 AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF TEANECK TO ENACT NEW REGULATIONS RELATED TO OUTDOOR CAFES COMPLIANT WITH STATE STATUTE BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #40-2023 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.**

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF TEANECK TO ENACT NEW REGULATIONS RELATED TO OUTDOOR CAFES COMPLIANT WITH STATE STATUTE

BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #40-2023 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.

**HISTORY:**

10/17/23          Township Council          INTRODUCED

**COMMENTS - Current Meeting:**

1) Darryl Green - wanted to assure that this would not affect pedestrians negatively.

<b>RESULT:</b>	<b>ADOPTED BY CONSENT VOTE [UNANIMOUS]</b>
<b>MOVER:</b>	Michael S Pagan, Councilman
<b>SECONDER:</b>	Danielle Gee, Councilwoman
<b>AYES:</b>	Katz, Schwartz, Orgen, Pagan, Belcher, Gee, Goldberg

TOWNSHIP OF TEANECK  
BERGEN COUNTY, NJ

**ORDINANCE NO. 40-2023 AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF TEANECK TO ENACT NEW REGULATIONS RELATED TO OUTDOOR CAFES COMPLIANT WITH STATE STATUTE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TEANECK THAT ORDINANCE #40-2023 PASS UPON SECOND AND FINAL READING AND THAT THE TOWNSHIP CLERK IS HEREBY AUTHORIZED AND DIRECTED TO ADVERTISE THE SAME ACCORDING TO LAW AND TO PROVIDE THE APPROPRIATE NOTICES IN ACCORDANCE WITH LAW.**

**WHEREAS**, on January 7, 2021, the State of New Jersey adopted legislation, P.L. 2021, c. 15, that authorized certain businesses to utilize the public right-of-way-in particular, the sidewalks in front of restaurants-for selling food and beverages; and

**WHEREAS**, the law was scheduled to expire on November 30, 2022; and

**WHEREAS**, on August 3, 2022, the State of New Jersey amended the law to also permit outdoor dining at any location approved by the municipality, pursuant to P.L. 2022, c. 85; and

**WHEREAS**, the amended law also authorized restaurants to install and utilize “tents, canopies, umbrellas, tables, chairs, and other fixtures” for outdoor dining so long as they otherwise complied with the Uniform Construction Code and Uniform Fire Code; and

**WHEREAS**, the amended law only permits this continuous use from April 1 through November 30 of each year the law is in effect, and is set to expire on November 30, 2024; and

**WHEREAS**, the Township Code for the Township of Teaneck (the “Township”) permits restaurants to offer year-round outdoor dining, subject to certain requirements; and

**WHEREAS**, the Governing Body for the Township wishes to clarify the interplay between what is permitted under the Township Code and state statute for outdoor dining.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council that:

**SECTION I.** Article III, “Site Design Review,” of Chapter 33, “Development Regulations,” of the Township Code of the Township of Teaneck is hereby amended as follows:

**Sec. 33-18. Standards and Specifications.**

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**(d)** Outdoor cafes.

**(1)** Purpose. The purpose of this subsection is to establish a procedure and authorize rules and regulations thereunder for the licensing of outdoor cafes in the B-1

Business-Retail Zone, MX-1 Mixed Use-1 Zone, MX-2 Mixed Use-2 Zone and the B-R Special Business-Residential Zone of the Township.

- (2) Definitions. For the purpose of this subsection, the following words or terms shall have the following meanings:

**OUTDOOR CAFE**

An accessory use to a restaurant or fast-food restaurant, as defined in Chapter 33 of the Township Code, § 33-3, where food and other refreshments are served upon the public right-of-way, namely the sidewalk, as defined herein, immediately in front of any such restaurant or where permitted herein on private property.

**SIDEWALK**

The area of the public right-of-way reserved for pedestrian traffic from the curb to the front property line of the building housing a restaurant.

- (3) It shall be unlawful for any person, firm, partnership, corporation, association, or organization of any kind (hereinafter collectively referred to as “person”) to create, establish, operate, maintain, or otherwise be engaged in the business of conducting an outdoor cafe upon the sidewalks of the Township, unless such person shall hold a currently valid certificate of use issued pursuant to the terms of this subsection.
- (4) No certificate of use shall be issued hereunder unless the holder of the certificate of use (hereafter “permittee”) shall demonstrate:
- a. Ownership of the restaurant to which the outdoor cafe is accessory;
  - b. That the property allows a minimum of four feet of unobstructed sidewalk for pedestrian traffic around such outdoor cafe; and
  - c. That such outdoor cafe is directly in front of the restaurant to which the outdoor cafe is accessory. The term “directly in front of” shall confine the outdoor cafe to the area represented by an extension of each side of the front of the building occupied by the restaurant, projected to the curblines immediately in front thereof.
- (5) Separate application for the certificate of use required hereunder shall be made to the Construction Official for each location and shall be signed by the applicant, under oath.
- a. The application shall contain the following information:
    - 1. The name, residence address and telephone number of each individual, owner or partner; or, if a domestic corporation, the names, residence

addresses and telephone numbers of the directors and officers owning a ten-percent or greater interest in the corporation and the chief operating executive of the corporation; and, if a nondomestic corporation, the name, residence address and telephone number of the managing officer for service of process within the State of New Jersey and a copy of the qualification of said nondomestic corporation to conduct business in the State of New Jersey.

2. A copy of the assumed business, if any, in which the applicant intends to establish or operate an outdoor cafe.
  3. The address and description of the place where the applicant intends to establish or operate an outdoor cafe.
  4. The name and address of the person owning the premises, if other than the applicant, and the consent of the owner of the premises to the application.
  5. A copy of a location survey, prepared by a surveyor, licensed in the State of New Jersey, of the subject premises.
  6. Three sets of a proposed layout plan containing scaled drawings, prepared by an architect licensed in the State of New Jersey, clearly illustrating the number, type of materials, color and location of all tables, chairs, umbrellas or other furnishings or fixtures intended to be located in the outdoor cafe.
- b.** The scaled drawings shall also illustrate the following:
1. The location of any doors leading from the eating establishment to the outdoor cafe. No such doors may be obstructed in any manner.
  2. The number of feet and location of unobstructed space permitted for free passage of pedestrian traffic around each outdoor cafe.
  3. The interior location, at or near the doors leading from the eating establishment to the outdoor cafe, where any food or drink is intended to be prepared.
  4. The location of all fire hydrants, utility poles, benches, handicap ramps, street furniture, trees, and any other fixtures permanently located on the sidewalk in front of the eating establishment or within 10 feet thereof on either or any side.
  5. An application fee as set forth in the Township Code.
- (6)** The Construction Official shall review the application for completeness and compliance with the terms of this subsection. If the application is complete, the Construction Official will act upon the same within 10 business days of the

submittal of the application. If the application is not complete, the Construction Official will so notify the applicant within 10 business days of the submission and specifically detail the areas in which the application lacks compliance with the requirements of this subsection.

- (7) If the application complies with this subsection, the Construction Official shall issue a certificate of use strictly subject to the terms and conditions of this subsection.
- (8) The certificate of use is personal to the applicant, and any change or transfer of ownership of the restaurant to which the outdoor cafe is accessory shall terminate the certificate of use and shall require new application and a new certificate of use in conformance with all of the requirements of this subsection.
- (9) Acceptance of the certificate of use by the applicant shall operate as a consent to the health, fire, police and building officials of the Township to inspect the outdoor cafe for continued compliance with the terms and conditions of this subsection and any federal, state, county or local law, ordinance or regulation affecting the same.
- (10) Indemnification requirement. No certificate of use required by this subsection shall be granted to any person to operate an outdoor cafe until such person shall have filed with the Construction Official a statement agreeing to indemnify and hold harmless the Township, its agents, servants, representatives or employees from any or all claims, damages, judgment costs or expenses, including attorney fees, which they are required to pay because of any personal injury, including death, or property damage suffered by any person or persons as a result of or related in any way to the operation and maintenance of the outdoor cafe for which the certificate of use is issued.
- (11) Liability insurance requirement.
- a. No certificate of use required by this subsection shall be granted to any person to operate an outdoor cafe until such person shall have first filed with the Construction Official a comprehensive general liability policy issued to such person by a public liability insurance company authorized to do business in the State of New Jersey affording the coverages set forth below in the amounts specified. Such insurance policy shall name the Township of Teaneck, Paul A. Volcker Municipal Green, 818 Teaneck Road, Teaneck, New Jersey 07666, its agents, officers, servants, representatives, and employees as additional insured with respect to the operation and maintenance of the outdoor cafe in the following amounts:

Type	Amount
Bodily injury, each person	\$300,000
Each accident	\$1,000,000
Property damage, each person	\$300,000
Each accident	\$1,000,000

- b. The insurance coverage required by this subsection shall at all times be maintained for the full amount. The policy of insurance required by this subsection to be filed with the Construction Official shall contain a clause obligating the company issuing the same to give not fewer than 30 days' written notice to the Township Clerk before cancellation or amendments of any of the terms thereof. Notice of cancellation shall not relieve the company issuing such policy of liability for any injury or claim arising before the cancellation becomes effective. The cancellation of any such policy shall have the immediate affect of suspending the certificate of use of such person to operate the outdoor cafe covered thereby until a new policy complying with the provisions of this subsection is filed with the Construction Official and a letter in writing confirming the new effective date of the certificate of use is issued by the Construction Official.
- (12)** Every insurance policy required hereunder shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon, that the liability of the insured shall not be affected by the insolvency or the bankruptcy of the insured and that until the policy is canceled the insurance company will not be relieved from liability on account of nonpayment of premium or of any act or omission by the named insured. Such policy of insurance shall be further conditioned for the payment of any and all judgments up to the limits of such policy.
- (13)** Revocation or suspension of certificate of use. Any certificate of use issued hereunder is issued solely as a revocable certificate of use, which shall be subject to revocation or suspension by the Township Manager for failure of any permittee to comply with this subsection or for violation of any other applicable federal, state, county or municipal law, regulation, or ordinance. Any certificate of use issued hereunder is issued upon the express understanding that the permittee obtains no property rights thereunder nor any interest in the continuation of said certificate of use.
- (14)** It shall be unlawful for any person to operate an outdoor cafe after the suspension or termination of the applicable certificate of use.
- (15)** Each permittee is responsible for keeping the area of the outdoor cafe and the adjacent walks and streets free and clear of any obstruction, debris or litter occasioned by the cafe. The permittee shall ensure that the operations of the outdoor cafe and any and all furniture or fixtures associated therewith do not in any way interfere with or deny access to any fire hydrant, utility pole, bus stop, garbage receptacle, or any other municipal or public service. Areas must be cleaned as needed and at the time that the business closes and at the beginning of each business day, but not later than 9:00 a.m.
- (16)** No vending machines of any kind shall be permitted on the exterior of any building

operating an outdoor cafe. No food or drinks served at such outdoor cafe shall be prepared or stored other than in the interior of the restaurant.

- (17)** Signs. No signs shall be permitted in the area of the outdoor cafe except signs on awnings and/or canopies complying with § 33-18 of the Township Code. Outdoor umbrellas located in an outdoor cafe shall be exempt from § 33-18.
- (18)** In addition to the powers of suspension or revocation as set forth above, the Township reserves the right to modify, suspend or revoke any certificate of use on 10 days' written notice if it is determined by the appropriate Code Enforcement Official that pedestrian traffic is impeded or made unsafe because of the operation of an outdoor cafe or because of any other safety issue which a Code Enforcement Official determines to adversely affect the public interest. The certificate of use may also be suspended or revoked on 10 days' written notice in the event that it is determined that it is necessary to utilize the area or any part thereof for the maintenance or installation of underground utilities. In the event of an emergency, as certified by the Township Manager, the certificate of use may be suspended or revoked without notice.
- (19)** Outdoor cafes shall be permitted to operate January 1 to December 31 in the calendar year, except when there is snow or ice along or on any sidewalk or curb area in front of the establishment for which the permit is issued or within 200 feet thereof. The certificate of use, when issued, shall be valid only for the calendar year during which it is issued. For the period in which P.L. 2022, c. 85 is in effect, restaurants utilizing outdoor cafes shall be limited to using tents, canopies, umbrellas, and any other overhead structures permitted by state statute, from April 1 to November 30 of each year, whether temporary or permanent, and shall remove said structure during all other times.
- (20)** No tables, chairs or other equipment used in the outdoor cafe shall be attached, chained or in any manner affixed to any tree, post, sign, curb or sidewalk or property of the Township within or near the permitted area.
- (21)** The permittee agrees that, at the end of each business day, all tables, chairs, furnishings, or fixtures (as may be required by P.L. 2021, c. 15, § 3(e)) for cafe purposes shall be removed from the sidewalk to allow for unimpeded pedestrian traffic. All outdoor furniture once removed shall nevertheless likewise be reasonably secured against wind and weather. Failure to do any of the foregoing shall grant to the Township the right to remove any property on the sidewalk, and the permittee agrees to reimburse the Township for the cost of removing and storing the same.
- (22)** The permittee shall not direct or permit to be directed to or from the area occupied by the outdoor cafe any bell, chime, siren, whistle, loudspeaker, public address system, radio, sound amplifier, musical instrument, or similar devices.

