

**BOROUGH OF BUTLER
RESOLUTION NO. 2020-61**

**RESOLUTION PERMITTING TEMPORARY OUTDOOR SEATING FOR RESTAURANTS
DURING THE PANDEMIC SHUTDOWN OF RETAIL AND COMMERCIAL BUSINESSES IN
THE BOROUGH OF BUTLER**

WHEREAS, restaurants are an integral part of the Borough of Butler; and

WHEREAS, policies and measures to mitigate the spread of the Covid-19 virus have greatly affected the business model of restaurants with the expansion of outdoor seating being a method of balancing the need for social distance with the need to have adequate space to feasibly reopen; and

WHEREAS, The Borough desires to help its local businesses through this difficult time; and providing an expedited mechanism to permit an expansion of outdoor seating capacity for restaurants is a means to support local businesses; and

WHEREAS, restaurant owners are seeking guidance as to how they may safely resume dining service upon the temporary allowance of outdoor dining allowable under state authority; and

WHEREAS, The Borough supports temporary, practical measures that enable restaurants to augment their dine-in capabilities as a means to boost customer activity.

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Borough Council of the Borough of Butler in the County of Morris in the State of New Jersey as follows:

1. Outdoor seating will be temporarily permitted as an accessory use to a restaurant, fast-food restaurant and drive-in restaurant as those terms are defined in the Borough Zoning Ordinance. The temporary period shall be up through November 30, 2020 unless a longer or shorter time is established by an Executive Order issued by the Governor.
2. Outdoor restaurant seating will not require the filing of a Site Plan Application.
3. A Zoning Permit for Temporary Outdoor Restaurant Seating must be obtained prior to the creation of any outdoor seating. A drawing of the proposed outdoor restaurant seating area must accompany the Zoning Permit Application. This drawing shall show the location and size of all proposed tables and chairs and distances to other tables and chairs and distances from any other structures such as a host podium and serving stations. All distance separations shall comply with all applicable Executive Orders issued by the Governor of the State of New Jersey, as well as any other requirements, conditions and/or

limitations in any applicable Executive Orders. Also conditions set forth in the Commissioner of Health's Executive Directive #20-014, which itemizes health and safety requirements of the outdoor dining permissions shall be followed. Where available, the sketch shall be superimposed upon an existing site plan drawing or survey.

4. The Borough will waive the filing fee for a Zoning Permit for Temporary Outdoor Restaurant Seating seeking to create outdoor restaurant seating.
5. The Borough will expedite the review of all Applications seeking to create outdoor restaurant seating.
6. No performance bond, maintenance bond or engineering inspection fees will be required in connection with an approved outdoor restaurant seating plan.
7. The following standards are hereby created in connection with outdoor restaurant seating:
 - a. The outdoor restaurant seating area may not exceed 3,000 square feet;
 - b. Outdoor restaurant seating areas can be located upon public sidewalks where adequate provision is made for the pedestrian public, on relatively level grass areas, and in parking lots where an adequate number of parking stalls remain in the opinion of the Borough Zoning Officer.
 - c. Where outdoor seating is proposed to be created in a parking lot, bollards or other protection structures shall be erected along the perimeters of the outdoor restaurant seating area in order to enhance public safety;
 - d. Temporary lighting will be required if the outdoor restaurant seating area is proposed to be utilized after dusk;
 - e. All trash generated by the operation of the outside dining must be dealt with by the owner of the business and not placed in public garbage cans;
 - f. Landscaping of the perimeter of or within the outdoor restaurant seating area will not be required but may be proposed by the applicant;
 - g. An awning or umbrellas may be utilized within an outdoor restaurant area, but enclosed tents which create the effect of an indoor space shall not be permitted;
 - h. Serving stations and a host podium may be located within an outdoor restaurant seating area provided a plexiglass or other similar partition is used to separate the host from the guests;
 - i. No change in grading will be permitted in order to create an outdoor restaurant seating area, and no temporary flooring or mats may be utilized;
 - j. The proposed hours of operation of the outdoor restaurant seating area will be included in the Temporary Outdoor Restaurant Seating Application;
 - k. No outdoor restaurant seating area may be located within an approved delivery area/loading zone;

- l. If the proposed outdoor seating area encompasses a reserved handicap parking area, handicap parking must be provided in another location. Temporary signage must be displayed to identify the relocated handicap parking.
- m. Restaurants with existing outdoor seating areas may seek to expand the existing area.
- n. The proposed outdoor restaurant seating area may not affect the effective functioning of a prior approved site plan (i.e. blocking entrances or exits to the property);
- o. An applicant for a proposed outdoor restaurant seating area must have previously secured site plan approval from the Borough Zoning Board of Adjustment or Planning Board and must be in compliance with its existing site plan approval;
- p. The consumption of alcoholic beverages will continue to be regulated by the New Jersey Alcoholic Beverage Control Commission therefore all applicants are responsible for verifying that their liquor license permits the serving of alcohol outdoors;
- q. In no way does municipal permission for temporary outdoor seating preclude Butler Borough's retail food establishments from complete compliance with all applicable content in N.J.A.C. 8:24 – Sanitation in Retail Food Establishments and Food and Beverage Vending Machines.”
- r. In multi-tenanted properties, an approved temporary outdoor restaurant seating area must be discontinued or reduced in size if other retail, personal service and/or commercial establishments are permitted to reopen and there is not then an adequate number of parking stalls available in the discretion of the Borough Zoning Officer;
- s. An approved outdoor restaurant seating area must be discontinued or reduced in size if proper social distancing is not maintained or the restaurant establishment does not comply with applicable sanitary and cleaning standards, use of masks and partitions or other Executive Order requirements issued by the Governor;
- t. All outdoor seating areas must be closed by 10:00 p.m.;
- u. Provisions concerning such issues as the maximum number of people at a table; required minimum distances between tables; and standards for addressing patrons waiting to be seated must follow the Governor's Executive Order permitting this temporary outdoor dining.

8. This Resolution shall take effect on the date it is adopted by the Butler Mayor and Council.

Adopted:

Mary O'Keefe, Borough Clerk

Robert W. Alviene, Mayor



BOROUGH OF BUTLER
ZONING DEPARTMENT
1 Ace Road
Butler, NJ 07405
973-838-7200 ext. 224 or ext. 222
Fax 973-838-3762

TEMPORARY OUTDOOR RESTAURANT SEATING

Name of Business: _____

Contact person: _____

Address: _____

Phone: _____

Owner Name and Signature: _____

Begin and End Date of Outdoor Seating (Can't exceed Nov. 30, 2020): _____

Hours of Operation for Outdoor Seating Area (Not after 10 pm): _____

Applications are currently being accepted but approvals cannot be granted until an official Executive Order has been signed by Governor Murphy and Approval is provided by Butler.

The following items must be included with the application:

1. Survey or plot plan showing location, size and number of tables and seating. Area cannot exceed 3,000 sf.
2. Diagram of outdoor seating with measurements.
3. **No fee is required.**
4. If seating will be utilized after dusk, temporary lighting will be required if existing lighting is inadequate.
5. If within a parking lot, safety bollards or similar must be provided.
6. All applicants are responsible for verifying that their liquor license permits the serving of alcohol outdoors.
7. The standards included in resolution 2020-61 (attached) are understood and agreed to by the applicant
8. If a tent is being installed, the size of the tent must be specified below and a NO FEE fire permit must be obtained. Size of tent _____

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Approvals:

Zoning Officer

Date Issued/ Permit#