

**CHARTER TOWNSHIP OF WATERFORD
OAKLAND COUNTY, MICHIGAN**

**RESOLUTION REGARDING RESTAURANT NONPERMANENT STRUCTURES AND
TEMPORARY USES DUE TO COVID-19 EPIDEMIC**

RECITALS:

A. On June 8, 2020, the Board of Trustees adopted a Resolution Allowing Temporary Uses Due to COVID-19 States of Emergency, Orders, and Related Hardships that was effective through October 31, 2020, providing assistance for restaurants by permitting them to temporarily expand their dining areas in response to capacity restrictions under Executive Orders issued by the Governor.

B. Although the Executive Orders issued by the Governor that established the restaurant capacity restrictions have been determined by the Michigan Supreme Court to have been issued under an unconstitutional statute, under the Public Health Code the Director of the Michigan Department of Health and Human Services (MDHHS) has determined that COVID-19 is an epidemic and has issued, and is expected to continue to issue, Orders to control that epidemic, which include restrictions on gatherings at food service establishments, with the current restriction prohibiting gatherings that exceed 50% of seating capacity.

C. Section 4-014 of the Zoning Ordinance allows the Zoning official to approve permits for nonpermanent buildings and structures on a zoning lot to be used in conjunction with the principal use of that zoning lot.

D. In adopting this Resolution, the Board of Trustees intends and is attempting to assist restaurant establishments as defined in the Zoning Ordinance by permitting them to temporarily expand their dining areas, including to outdoor areas, as a means to help them deal with the hardships imposed by the COVID-19 epidemic while still complying with MDHHS Orders or other laws restricting capacity.

IT IS THEREFORE RESOLVED that during any time when the persons allowed to gather is limited by COVID-19 related State of Michigan Orders or other laws to less than the seating capacity of a restaurant establishment, that establishment may provide services in outdoor areas for the number of persons not allowed to gather in the indoor part of the establishment by that State Order or law, subject to and in compliance with the following standards and procedures:

1. Must comply with the provisions of all current and future Michigan statutes Orders of the MDHHS, Governor, or other State Department regarding the business, face coverings, social distancing, protective clothing or equipment, party size, occupancy requirements, and any other applicable standards, conditions, or requirements.
2. Standards for Temporary Approval for outdoor dining spaces for Restaurant Establishments include:

- a. If use of a new nonpermanent building or structure is proposed for the outdoor dining space, the requirements and procedure in Section 4-014 of the Zoning Ordinance shall be followed, with the Zoning Official allowed to issue successive permits for the same restaurant establishment.
- b. If use of an existing structure such as a designated hard surface or parking area is proposed for the outdoor dining space, the requirements and procedure in Section 4-014 shall also be followed, with the Zoning Official allowed to issue successive permits for the same restaurant establishment.
- c. These uses must be operational in conjunction with an interior business of the same function and on the same property
- d. To be located outside of the establishment on designated hard surfaced or parking areas.
- e. Business must possess a valid Certificate of Occupancy and any required Business License at the time of application.
- f. Applicant must obtain permission from property owner and must verify, in writing, the current number of tables or chairs to determine number of exterior tables or chairs permitted.
- g. Unless otherwise specified by the State of Michigan, tables and chairs must be placed so that patrons are at minimum 6 feet away from other patrons.
- h. Must comply with all applicable Fire Department and Code regulations and requirements, including approval for outdoor tents, to ensure Fire Department access is not impeded.
- i. Must comply with all State and County Department of Health regulations.
- j. Must comply with the Michigan Building Code.
- k. Any tents or canopies must be securely anchored down and obtain the appropriate permits from the Fire and Development Services Departments.
- l. Outdoor seating must not impede or otherwise impact ingress or egress to any buildings or the property. Seating areas and pathways must also comply with State of Michigan Barrier-Free and Federal ADA requirements.
- m. The outdoor dining space must be separated from sidewalks and driveways. If tables or chair are located within a parking space or area, a substantial, temporary physical barrier must be placed separating the dining from the remaining parking in a manner that keeps patrons safe from traffic. Temporary physical barriers may include, but are not limited to, wheel chocks, planter boxes, decorative fencing, platforms, etc., or a combination thereof.

- n. Temporary outdoor uses cannot occupy existing required vegetative buffers or open space.
- o. All temporary outdoor dining areas must be maintained in a clean and orderly manner.
- p. No outdoor seating may occupy any portion of public sidewalk or right-of-way.
- q. Hours of operation must be consistent with the current hours of operation of the existing business (unless restricted further by State Orders or laws).
- r. Any nuisances (including, but not limited to, noise, parking issues, etc.) that arise from the outdoor seating must be mitigated by the applicant and/or property owner to eliminate all negative impacts on surrounding properties. Failure to do so could result in revocation of Zoning Official's permit or approval, in which case all exterior appurtenances are required to be removed within 7 days of revocation.

3. Submission and review Process:

- a. The applicant(s) obtains an application and plan review and fee requirements from the office of the Zoning Official.
- b. The applicant(s) submits the fee; completed application forms, including a written statement describing the requested outdoor seating use, the start- and end-dates of the event, a written description of traffic/parking management, waste disposal, security, and similar measures to minimize any negative land use impacts; a copy of the existing approved final site plan or plot plan for applicant(s) where no final site plan exists for the subject zoning lot; and related documentation in the quantity specified by the Zoning Official.
- c. The Zoning Official's clerical staff reviews submittal for completeness. It shall be the responsibility of the applicant(s) to ensure that they submit a complete application package in accordance with the requirements established by the Zoning Official. No progress beyond this step will occur until the applicant(s) fully complies with the application submittal requirements.
- d. Once a complete set of application materials is received, the Zoning Official shall conduct a review to ensure compliance with this Resolution.
- e. The Zoning Official shall notify the applicant(s) of any revisions required to for the application to be approved. The applicant(s) shall be responsible for making those revisions.

- f. The Zoning Official shall approve an application that meets all standards, conditions, and requirements of the Zoning Ordinance and this Resolution.

CERTIFICATION

I hereby certify that this Resolution was adopted by the Charter Township of Waterford Board of Trustees at a regular meeting on November 9, 2020.

Charter Township of Waterford

Date

Kimberly F. Markee, Township Clerk