

ORDINANCE NO. 2024-16

**TOWNSHIP OF CHESTERFIELD
COUNTY OF BURLINGTON
STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 130
ENTITLED “LAND DEVELOPMENT” OF THE TOWNSHIP CODE WITH
THE ADDITION OF SECTION 130-88.4 ENTITLED “OUTDOOR
DINING”**

BE IT ORDAINED by the Township Committee of the Township of Chesterfield, County of Burlington, State of New Jersey that Chapter 130 entitled “Land Development” of the Chesterfield Township Code be amended and supplemented with the addition of Section 130-88.4 entitled “Outdoor Dining” to read as follows:

CHAPTER 130 LAND DEVELOPMENT

§ 130-88.4 Outdoor Dining

§ 130-88.4.1 Factual Findings and Purpose.

The Township Committee hereby finds and determines that:

- a. Currently, outdoor dining is not permitted in any of the zones within the Township of Chesterfield. The only way to obtain approval for outdoor dining currently within Chesterfield Township would require a zoning variance and site plan approval.
- b. This ordinance would:
 1. Authorize outdoor dining in all zoning districts where restaurant uses are permitted and without the necessity of site plan review and approval.
 2. Require applicants to obtain an Outdoor Dining Permit. A new application would be required if the property is sold or transferred or if there is any change in the outside dining area.
 3. Establish the procedure for obtaining such an Outdoor Dining Permit as well as the requirements for issuance of the Outdoor Dining Permit.
 4. Specifies that the Township reserves the right to amend or rescind the outdoor dining ordinance when and if determined necessary to do so and that no person acquires any property or vested right in the outdoor dining privilege but that same remains subject to the Township's exercise of its police power.

- c. The purpose of this subsection is to promote the concept of outdoor dining which enhances the relaxed atmosphere and truly showcases the beautiful commercial business district(s) and other areas of the Township by allowing people to enjoy the ambiance of such areas and to provide a mechanism to permit food service establishments to offer outdoor dining without the time and expense of formal site plan review in accordance with the requirements of this subsection.
- d. It is the intention of the Township, however, to monitor and review the use of outdoor dining facilities after the adoption of this subsection to determine its full impact upon the Township and its citizens and visitors.

§ 130-88.4.2 Outdoor Dining Permitted.

All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, and all holders of a liquor license with retail consumption privileges, ["Establishment"] are permitted to offer in-person service at outdoor areas, provided that the Establishment obtains an Outdoor Dining Permit from the Township of Chesterfield for outdoor dining in accordance with the requirements set forth herein.

§ 130-88.4.3 Procedure for Approval of Outdoor Dining.

- a. Permit Required. The Outdoor Dining Permit Application shall include a completed application, signed and dated by the owner of the Establishment, or such owner's authorized agent, together with a plan depicting the existing and proposed layout and location of such outdoor tables/seating, which shall also include a confirmation of the number of existing approved tables/seats, a depiction of all aisles, routes of ingress and egress, clearances/distances between tables and between the seating area and any curb line or sidewalk line, trash receptacles, any proposed lighting, and any proposed structures to protect the outdoor dining area from the elements. In addition to the creation and/or expansion of the outdoor dining area, the application and plan may include proposed awnings, tents, pergolas and other similar devices to protect the outdoor dining area from the elements, and any additional wiring, heating and/or electrical changes that are proposed within this new outdoor seating area. If the owner of the Establishment is not the owner of the property, the property owner must also sign the application.
- b. Expanded Outdoor Dining Areas. The application and plan for outdoor dining may propose expanded outdoor dining areas including, but not limited to, decks, patios and sidewalks and relatively level grass areas contiguous with the Establishment, provided that any area proposed for outdoor seating/dining must be accessible from the Establishment, shall not obstruct the free flow of pedestrian traffic, and shall provide a safe location for the patrons. The total amount of seats available to patrons shall not exceed the permitted occupancy of the Establishment or such other occupancy that can reasonably and safely be

accommodated with support of a parking analysis. In the event the outdoor dining area is proposed to be located in the right of way in front of a neighboring property, it must be an immediate neighboring property and written consent of the neighboring property owner shall be provided as part of the application. If the neighboring property is not owner occupied, the written consent of any tenant(s) shall also be provided.

- c. Review of Permit Application. The application and plan for an Outdoor Dining Permit shall be reviewed by the Township Zoning Officer, Construction Official, Fire Official and Police Department (“reviewer”). In the discretion of any reviewer, additional information needed to process the application may be required and must be submitted by the applicant. The Outdoor Dining Permit does not replace, or eliminate the need for, any construction permit required for any structure or improvement at the Establishment’s outdoor dining area.

§ 130-88.4.4 Standards for Issuance of Outdoor Dining Permits.

- a. Outdoor dining areas must be designed and operated in accordance with State of New Jersey, Department of Health and any applicable County Health Department requirements.
- b. Outdoor dining areas may be located on decks, patios, sidewalks and relatively level grass areas, contiguous with the Establishment.
- c. If the contiguous area is located in a County Right of Way, approval from the County must be obtained.
- d. Lighting will be required if the outdoor dining area is proposed to be utilized after dusk and there is inadequate existing lighting.
- e. A non-enclosed tent, awning or umbrellas may be utilized within an outdoor dining area provided they do not restrict pedestrian access. Fire Department approval must be obtained if applicable.
- f. Serving stations and a host podium may be located within an outdoor dining area. There shall be no outdoor cooking allowed.
- g. No change in grading will be permitted in order to create an outdoor dining area.
- h. Establishments with existing outdoor dining areas may seek to expand the existing area in accordance with the regulations set forth herein.
- i. The operator of an outdoor dining area shall be responsible to provide, maintain and empty an adequate amount of outdoor trash receptacles for the outdoor dining area, and shall not be permitted to dispose of trash into municipal trash receptacles.
- j. The operator of an outdoor dining area shall be responsible for maintaining a sanitary, safe, litter-free and well-kept appearance of the property at all times.
- k. Adequate provision for pedestrian safety must be provided. To allow for pedestrian circulation, a minimum of five feet of sidewalk along the curb and to the entrance of the establishment shall be maintained free of tables and other encumbrances.

- l. Planters, posts with ropes, wrought iron railings, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied by the outdoor dining area.
- m. To the extent possible, all elements of the outdoor dining area shall be compatible with the architectural character of the building where the establishment is located.
- n. Outdoor dining areas may have outdoor heaters, provided same are in locations identified on the plan and subject to inspection by the Township Zoning Officer and/or the Fire Department.
- o. Establishments with outdoor dining areas shall not be entitled to additional signage, over and beyond what is permitted for the restaurant use.
- p. Establishments with on-premises retail consumption privileges are responsible for compliance with the New Jersey Alcoholic Beverage Control Commission.
- q. An Outdoor Dining Permit may be amended or revoked if the Township Administrator or his/her designee identifies a safety issue that may involve but not be limited to traffic, fire, pedestrian safety and trash management, or if the Establishment fails to comply with applicable sanitary and cleaning standards, or other requirements issued by the State or County Department of Health or the Township, including but not limited to the requirements of this Chapter.

§ 130-88.4.5 General Outdoor Dining Permit Conditions.

- a. The Township reserves the right to amend or revoke any Outdoor Dining Permit at any time, in the Township's sole discretion, if conditions of the permit are not adhered to.
- b. For any outdoor seating/dining activities on public property or in a public right-of-way, the Establishment shall provide a Certificate of Insurance, with acceptable limits of coverage, naming the Township as an additional insured, and shall indemnify and hold harmless the Township, its employees, agents and/or officers from all claims, losses, liens, expenses, suits, including costs and attorney's fees, arising out of the placement, operation and maintenance of the outdoor dining area approved by said Outdoor Dining Permit.
- c. All expenses and expenditure of any funds in reliance on the provisions of the Outdoor Dining Permit shall be at the Establishment's sole and exclusive cost and expense.
- d. Any changes to a permit granted hereunder shall require the submission of a new permit application.

§ 130-88.4.6 Existing Approvals; Hours of Operation.

Nothing herein shall prevent the continued use of an outdoor dining area at any Establishment already authorized and approved by the Township pursuant to any prior site plan or other land use approval. Outdoor dining areas authorized by an Outdoor Dining Permit shall be conducted during the same hours of operation currently applicable to the Establishment.

§ 130-88.4.7 Approvals.

Administrative approval of outdoor dining may be permitted as determined by the Township Administrator or his/her designee prior to the issuance of an Outdoor Dining Permit. The issuance of an Outdoor Dining Permit for outdoor dining, including, but not limited to, location, scope, setbacks and size of the outdoor dining area, is solely in the discretion of the Township. In order for an application to be considered for administrative approval, the following must be met:

- a. There must be an approved site plan on file with the Township for the site.
- b. All of the conditions indicated in Sections 130-88.4.4 and 130-88.4.5 above must be met.
- c. If any of the conditions listed in Sections 130-88.4.4 and 130-88.4.5 above cannot be met, or if the applicant does not agree with the determination may by the Township Administrator or his/her designee, the applicant shall make an application to the Planning Board for site plan approval.
- d. No new impervious cover is proposed.
- e. The cost for the administrative review by the Township shall be the responsibility of the applicant. Escrow shall be posted in the amount of \$250 for less than three (3) tables, \$500 for less than six (6) tables, \$1,500 for six (6) or more tables.

§ 130-88.4.8 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall, upon conviction, be liable of not more than \$2,000 and costs of prosecution or imprisonment in the Burlington County Jail for a period of not more than 90 days, or both such fine and imprisonment. Every day that a violation continues shall constitute a separate and distinct offense. Each and every violation shall be considered a separate violation.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions of this Ordinance, except so far as the provisions or paragraphs so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall be subject to review and recommendation by the Chesterfield Township Planning Board in accordance with N.J.S.A. 40:55D-26. The Burlington County Planning Board and adjoining municipalities shall be provided notice of this proposed ordinance in accordance with N.J.S.A. 40:55D-15(a).

4. This Ordinance shall take effect upon final passage and publication in accordance with law, including N.J.S.A. 40:55D-16.

Introduced: June 27, 2024

Adopted: July 25, 2024

Effective Date:

Township of Chesterfield

By: _____
Caryn M. Hoyer, RMC

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| RECORD OF VOTE 2024-16                                                                 |     |     |    |    |     |     |                |     |     |    |    |     |     |
|----------------------------------------------------------------------------------------|-----|-----|----|----|-----|-----|----------------|-----|-----|----|----|-----|-----|
| INTRODUCTION                                                                           |     |     |    |    |     |     | ADOPTION       |     |     |    |    |     |     |
| TWP COMMITTEE                                                                          | AYE | NAY | NV | AB | ORD | SEC | TWP COMMITTEE  | AYE | NAY | NV | AB | ORD | SEC |
| B. Blazic                                                                              | X   |     |    |    |     |     | B. Blazic      | X   |     |    |    |     |     |
| S. Dhopte                                                                              | X   |     |    |    | X   |     | S. Dhopte      | X   |     |    |    |     |     |
| R. Hughes                                                                              | X   |     |    |    |     |     | R. Hughes      | X   |     |    |    | X   |     |
| D. Koetas-Dale                                                                         | X   |     |    |    |     | X   | D. Koetas-Dale | X   |     |    |    |     | X   |
| M. Litt                                                                                | X   |     |    |    |     |     | M. Litt        | X   |     |    |    |     |     |
| X – Indicates Vote    NV – Not Voting    AB – Absent    ORD – Motion    SEC - Seconded |     |     |    |    |     |     |                |     |     |    |    |     |     |

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted at a meeting of the Mayor and Township Committee held on July 25, 2024.

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Caryn M. Hoyer, RMC, Township Clerk