

BOROUGH OF TENAFLY
APPLICATION FOR OUTDOOR SEATING

A. Applicant

Name of Applicant _____

Address _____

Telephone No. _____

B. Location of Property

Address _____

Block _____ Lot _____ Zone _____

C. Property Owner (If different than Applicant)

Name of Property Owner _____

Address _____

Telephone No. _____

D. Layout Plan

Submit three (3) copies of a proposed layout plan drawn to scale including the following:

- (a) Show location of proposed tables and chairs or other furnishings to be located outdoors. Include color, number, style or type, and size.
- (b) Show location of any doors leading from the business establishment to the outdoor seating area.
- (c) Show location of the place within the business establishment where any food or drink is intended to be prepared, sold and consumed.
- (d) Show unobstructed space of at least five (5) feet permitting free passage of pedestrian traffic around or through the outdoor seating area.
- (e) Show locations of any and all fire hydrants, utility poles, benches, handicap ramps, street or other furniture, planters, trees, and any other fixtures permanently located on the sidewalk in front of the business establishment or within ten (10) feet on either or any side.
- (f) Show location where tables and chairs will be stored overnight.

E. Description of Outdoor Seating Area

Attach a narrative describing the purpose of the proposed outdoor seating area including the types of food and beverages which will be served or consumed, whether table service will be provided, etc.

F. Hours of Business

Indicate below the days of week and hours of operation of the outdoor seating area. If seasonal, so state. _____

G. Certificate of Insurance & Hold Harmless Statement

Submit proof of commercial general liability insurance coverage with limits of at least \$ 1,000,000 per occurrence bodily injury and property damage, and naming the Borough of Tenafly, its agents, officers, servants, representatives, and employees as additional insureds with respect to the operation and maintenance of the outdoor seating. Submit a statement in a form satisfactory to the Borough agreeing to indemnify and hold harmless the Borough of Tenafly. Certificate of Insurance must be submitted prior to issuance of permit.

H. Permit Fee

Submit a permit fee in the amount of \$ 50.00 in cash or check made payable to "Treasurer, Borough of Tenafly."

I. Consent of Property Owner

The undersigned hereby certifies that he or she is the owner of the property which is affected by this application and hereby consents to this application.

Signature of Property Owner

Date

J. Certification of Applicant

The undersigned hereby certifies that the information provided herein is true and complete to the best of my knowledge. The undersigned hereby acknowledges that he/she has read the "Outdoor Seating Rules and Regulations" and agrees to comply with said rules and regulations.

Signature of Applicant

Date

K. FOR BOROUGH USE ONLY

APPLICATION CHECK LIST

- Layout plan (3 copies) submitted
- Narrative describing outdoor seating area
- Hours of business
- Certificate of insurance; coverage period from _____ to _____
- Hold harmless statement
- Permit fee: Amount \$_____ Check No. _____ Date Paid _____
- Consent of property owner
- Applicant certification

APPLICATION DEEMED COMPLETE

By: _____ Date _____

APPLICATION DEEMED INCOMPLETE

REASONS: _____

By: _____ Date _____

REVIEW BY CONSTRUCTION OFFICIAL

- Application conforms to requirements of Ordinance No. 98-17 and Zoning Ordinance of the Borough of Tenafly.
- Application does not comply for the following reasons: _____

By: _____ Date _____

REVIEW BY MAYOR & COUNCIL

- Review by Mayor & Council; Date of meeting _____
- Approved Approved with exceptions noted
- Denied
- Public Hearing Date (if applicable) _____
- Permit issued; Permit No. _____ Date _____

BOROUGH OF TENEFLY
HOLD HARMLESS STATEMENT
OUTDOOR SEATING

The undersigned _____

Hereby agrees to indemnify and hold harmless the Borough of Tenafly, its agents, servants, representatives or employees from any and all claims, damages, judgment costs or expenses, including attorney fees, which they or any of them may occur or be required to pay because of any personal injury, including death, or property damage suffered by anyone in any way to the operation and maintenance of the outdoor seating area for which the permit is issued.

Signature of Business Owner

Business Name/Address

Date

4-25 OUTDOOR SEATING AT CERTAIN BUSINESS ESTABLISHMENTS WITHIN THE BUSINESS AND COMMERCIAL DISTRICTS.

4-25.1 Findings and Purpose.

The Borough Council finds that the placement of tables and chairs on public sidewalks and within the public rights-of-way, or where permitted on private property, for the purpose of serving the public food and beverages within the Business and Commercial Districts will promote the public interest by adding to the active and attractive pedestrian environment and provide the opportunity for creative, pedestrian-focused commercial activities which will add to the excitement, vitality, and diversity of the Central Business District. The purpose of this section is to establish a procedure and authorize rules and regulations thereunder for the permitting of outdoor seating at certain business establishments within the Business and Commercial Zoning Districts of the Borough of Tenafly in order to protect the public health, welfare, and safety and to assure that pedestrian traffic upon public sidewalks and within public rights-of-way is unencumbered by the outdoor seating. (Ord. No. 98-17 § 1)

4-25.2 Definitions.

As used in this section:

Public right-of-way shall mean the strip of land along a public street dedicated and intended for public use.

Sidewalk shall mean the paved surface provided for the exclusive use of pedestrians in the public right-of-way and situated between and extending from any building to the curb of any street.

(Ord. No. 98-17 § 2)

4-25.3 Permit Required.

It shall be unlawful for any person, firm, partnership, corporation, association or organization of any kind (hereinafter collectively referred to as "person") to place tables, chairs, or any object or thing upon the public sidewalk or within the public right-of-way of any street, or to operate an outdoor seating area on private property, unless such person shall have obtained the approval of the Mayor and Council and shall have obtained a permit issued pursuant to the terms of this section. The permit is personal to the applicant and any change or transfer of ownership shall terminate the permit and shall require new application and a new permit in conformance with all of the requirements of this section. (Ord. No. 98-17 § 3)

4-25.4 Permit Fee.

The annual fee for the permit required pursuant to subsection 4-25.3 above shall be fifty (\$50.00) dollars. (Ord. No. 98-17 § 4)

4-25.5 Term of Permit; Renewals.

All permits shall be issued for a one (1) year period. Permits shall be renewed annually by the filing of an application and payment of the annual permit fee in accordance with the provisions of subsection 4-25.6. (Ord. No. 98-17 § 5)

4-25.6 Application Procedure.

a. An application for approval to place tables, chairs, or any other object or thing upon the public sidewalk or within the public right-of-way of any street, or where permitted on private property, shall be made by submission of the following to the Borough Clerk:

1. The name, residence or building address, and telephone number of the applicant.
2. The name, address, and telephone number of the property owner, if other than the applicant, together with the written consent of the property owner to the application.
3. One (1) copy of a proposed layout plan drawn to scale illustrating the number, type of materials, color and location of all tables, chairs, umbrellas, or other furnishings or fixtures intended to be located outdoors. The scaled plan shall also illustrate:
 - (a) The location of any doors leading from the business establishment to the outdoor seating. No such doors may be obstructed in any manner.
 - (b) The location of the place within the business establishment where any food or drink is intended to be prepared, sold, and consumed.
 - (c) The number of feet and location of unobstructed space permitting free passage of pedestrian traffic around or through the proposed outdoor seating.
 - (d) The location of all fire hydrants, utility poles, benches, handicap ramps, street or other furniture, planters, trees, and any other fixtures permanently located on the sidewalk in front of the business establishment or within ten (10) feet thereof on either or any side.
4. The application fee required pursuant to subsection 4-25.4.

b. The Borough Administrator shall review the application for completeness and compliance with the terms of this section. If the application is complete, the Borough Administrator will forward the complete application to the Construction Official and other appropriate municipal offices for review after which the application will be forwarded to the Borough Clerk for consideration by the Mayor and Council at the next regular meeting. If the application is not complete, the Borough Administrator shall so notify the applicant within ten (10) business days of the submission of the application and specifically detail in writing the areas in which the application lacks compliance with the requirements of this section.

(Ord. No. 98-17 § 6)

4-25.7 Rules and Regulations for Outdoor Seating.

The following rules and regulations shall apply for any application for outdoor seating:

a. No permit shall be issued hereunder unless the applicant shall demonstrate that a minimum of five (5) feet of unobstructed paved surface will be available for pedestrian traffic around and through the outdoor seating area measured from the perimeter of the proposed outdoor seating to the curb of the street, and that such outdoor seating be directly in front of the applicant's retail food establishment.

b. No vending machines of any kind are permitted on the exterior of any building where outdoor seating has been permitted.

c. No signs shall be permitted in the area of the outdoor seating. Tables, chairs, and outdoor umbrellas shall not contain any lettering, logo, or advertising.

d. No tables, chairs or other equipment used in the outdoor seating shall be attached, chained or in any manner affixed to any tree, post, sign, curb or sidewalk, or property of the Borough of Tenafly within or near the outdoor seating area.

e. No outdoor seating area shall be open for business prior to 6:00 a.m. nor remain open for business after 12:00 a.m. Monday through Thursday or after 12:30 a.m. Friday through Sunday. Any business with outdoor seating located within a building or contiguous to a building containing a residential use shall not remain open for business after 11:00 p.m.

f. Any table service provided within the approved outdoor seating area shall be provided by persons employed by the permittee for that purpose and shall be furnished to seated patrons only.

g. The sale, service and/or consumption of alcoholic beverages shall be permitted at outdoor seating areas subject to the regulations set forth in subsection 4-25.7.1 of this section.

h. Each permittee is responsible for keeping the area of the outdoor seating and the adjacent sidewalks and streets free and clear of any debris or litter occasioned by the outdoor seating. Areas shall be cleaned as needed and at the time that business is closed and at the beginning of each business day, but not later than 9:00 a.m. Within thirty (30) minutes after the closing of the business, the permittee shall cause to have removed from the sidewalk or other outdoor area all tables, chairs, umbrellas, and any other material or items used in connection with the outdoor seating. All such materials and items shall be stored in a safe and secure location approved by the Borough. An exception to the requirement to remove tables and chairs may be granted by the Borough for outdoor seating located on private property.

i. Notwithstanding anything in this section to the contrary, no outdoor seating shall be permitted where prohibited by the Borough Zoning Ordinance or any other municipal, State, or Federal statute, ordinance, or regulation.

j. *Exceptions.* Exceptions to the standards contained in this subsection may only be granted by the Mayor and Borough Council after a hearing which shall be conducted with notice to adjacent property owner.

(Ord. No. 98-17 § 7; Ord. No. 05-25 § 2)

4-25.7.1 Consumption of Alcoholic Beverages.

a. The consumption of alcoholic beverages in any outdoor seating area that is otherwise permitted pursuant to this section shall be strictly subject to the following regulations:

1. Every restaurant, diner, cafe, or other establishment serving food and/or beverages that has been granted outdoor seating pursuant to this section, and for which a license authorizing the sale of alcoholic beverages for on-premises consumption has not

been issued, shall at all times be in full compliance with the provisions of N.J.S.A. 2C:33-27.

2. The owner of every establishment applying for outdoor seating shall certify, on a form to be provided by the Tenafly Borough Clerk, that he or she has read the restrictions imposed by this subsection and by N.J.S.A. 2C:33-27, and that all employees serving the outdoor seating area will be advised of same.

3. Every restaurant, diner, cafe, or other establishment serving food and/or beverages that has been granted outdoor seating pursuant to this section and which is also the holder of an alcoholic beverage control license authorizing the sale of alcoholic beverages for on-premises consumption shall be responsible to cause its license to be amended to include the area utilized for outdoor seating prior to serving any alcoholic beverages in the outdoor seating area.

4. Notwithstanding the hours of permitted outdoor seating specified in subsection 4-25.7e. of this section, no restaurant, diner, cafe, or other establishment serving food and/or beverages that is not licensed to sell alcoholic beverages for on-premises consumption shall permit the consumption of alcoholic beverages during any hours when the sale of alcoholic beverages for on-premises consumption by establishments holding an alcoholic beverage control license is prohibited.

5. No restaurant, diner, cafe, or other establishment serving food and/or beverages shall permit the consumption of alcoholic beverages in any outdoor seating area: (1) by anyone who is not a patron of the establishment; (2) by any person under the age of twenty-one (21) years; or (3) by any person who is visibly intoxicated.

6. In addition to any fine, penalties, license suspensions, and sanctions that may be imposed by law, any violation of this subsection 4-25.7.1 may also result in revocation of the offending establishment's outdoor seating permit by the Mayor and Council.
(Ord. No. 05-25 § 3)

4-25.8 Liability Insurance and Indemnification Requirement.

a. No permit required by this section shall be issued to any person for outdoor seating until such person shall have first filed with the Borough Clerk a certificate of insurance issued by a public liability insurance company authorized to do business in the State of New Jersey showing evidence of the comprehensive general liability insurance coverages set forth below in the amounts specified and showing the insurance policy expiration dates. Such certificate of insurance shall name the Borough of Tenafly, its agents, officers, servants, representatives, and employees as additional insureds with respect to the operation and maintenance of the outdoor seating in the following amounts:

Bodily injury, each person	\$300,000.00
Each accident	\$1,000,000.00
Property damage, each person	\$300,000.00
Each accident	\$1,000,000.00

The insurance coverage required by this subsection shall at all times be maintained by the applicant for the full amount, and evidence of such continued insurance coverage shall be required to be submitted annually to the Borough Clerk prior to the renewal of the permit. The cancellation of any such insurance coverage shall have the immediate effect of suspending the permit of such person to operate an outdoor seating area covered thereby until new insurance coverage has been obtained and certificate of insurance has been filed with the Borough Clerk and a letter in writing confirming the new effective date of the permit is issued by the Borough Clerk.

b. No permit required by this section shall be granted to any person to operate an outdoor seating area until such person shall have filed with the Borough Clerk a statement agreeing to indemnify and hold harmless the Borough of Tenafly, its agents, servants, representatives or employees from any or all claims, damages, judgment costs or expenses including attorneys fees, which they or any of them may incur or be 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 seating area for which the permit is issued.

(Ord. No. 98-17 § 8)

4-25.9 Revocation or Suspension of Permit.

a. Any permit issued hereunder is issued solely as a revocable permit, which shall be subject to revocation or suspension by the Mayor and Borough Council for failure of any permittee to comply with this section or for violation of any other applicable Federal, State, County or municipal law, regulation or ordinance. Any permit issued hereunder is issued upon the express understanding that the permittee obtains no property right thereunder, nor any interest in the continuation of the permit. It shall be unlawful for any person to operate an outdoor seating area after the suspension or termination of the applicable permit.

b. In addition to the powers of suspension or revocation as set forth above, the Borough reserves the right to modify, suspend or revoke any permit on ten (10) days written notice if the Borough determines that pedestrian traffic is impeded or made unsafe because of the operation of the outdoor seating or because of any other safety or noise issue which the Borough determines adversely affects the Borough because of such operation.

(Ord. No. 98-17 § 9)

4-25.10 Administration and Enforcement.

The Borough Administrator is authorized to administer the provisions of this section. The provisions of this section shall be enforced by the Zoning Officer and the Code Enforcement Officer of the Borough of Tenafly. (Ord. No. 98-17 § 10)

4-25.11 Violations and Penalties.

Any person who violates any provision of this section shall, upon conviction, be punished by a fine not exceeding one thousand (\$1,000.00) dollars. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 98-17 § 11)