

TOWNSHIP OF LIVINGSTON

OUTDOOR SEATING APPLICATION

APPLICANT

(Establishment Owner / Authorized Representative*)

*Application must be accompanied by letter from Establishment Owner authorizing the named representative.

NAME OF ESTABLISHMENT

ADDRESS

PHONE

FAX

MOBILE

BUILDING OWNER

Tables	Size
Benches	Size
Fences	Size
Planters	Size

Chairs	Size
Umbrellas	Size
Barriers	Size
Other	Size

Seating Capacity of Existing Establishment

Seating Capacity of Proposed Outdoor Seating

Retail Food Establishment License Number

Will beer/wine consumption be permitted at your Outdoor Seating? YES _____ NO _____

Outdoor Seating Plan Preparer (drawn to scale – need not be professional drawing):

NAME PHONE

ADDRESS

Note: Outdoor Seating Plan must be accompanied by the written authorization and approval of the owner of the building, if other than the applicant.

Fee as required by Ordinance – \$50.00

Please make check payable to the Township of Livingston. All fees collected are non-refundable.

1. Submit color photograph of property and proposed Outdoor Seating area.
 2. Submit scaled drawing / rendering of the proposed Outdoor Seating area.
 3. Description of proposed furnishings and equipment.
 4. Submit ten (10) copies of application and all attachments to the Architectural Review Board (the "BID")
- Note: If establishment was approved in the previous calendar year, item numbers 1-4 above may not be required for current year application approval. Please check with the Planning Department at 973-535-7954 to confirm.

**§ 170-92.1. Seasonal outdoor seating for consumption of food or beverages by patrons.
[Added 4-4-2005 by Ord. No. 4-2005"]**

- A. Inapplicability. This § 170-92.1 shall not apply in the Livingston Towncenter Redevelopment District.
- B. Definitions. As used in this § 170-92.1, the following terms shall have the meanings indicated:

PURVEYOR — A licensed business whose sole or primary activity is the sale of prepared foods or nonalcohol beverages for consumption off premises. The term does not include a supermarket or grocery, or an establishment providing service primarily from vending machines.

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- 11. Editor's Note: This ordinance also provided that other than expressly provided, outdoor seating for food or beverage consumption by patrons shall not be provided unless specific site plan approval that includes such seating has been granted by the Planning Board or Zoning Board of Adjustment after proper hearing and notice.

RESTAURANT — Any business whose sole or primary activity is the on-premises preparation, and the serving by wait staff, of meals indoors at not less than eight tables with an aggregate table seating capacity of not less than 36 persons, and which business derives more than 50% of its gross receipts from such meal service.

- C. At any nonresidential building located in the B, the B-1, or the B-2 District, and also fronting on South Livingston Avenue, North Livingston Avenue, East Mount Pleasant Avenue, West Mount Pleasant Avenue, East Northfield Road, or West Northfield Road, any duly licensed restaurant, or other occupant of the building which occupant is a purveyor on the premises of food or refreshments, as permitted in the applicable zoning district, may apply to the administrative officer for a seasonal permit to provide temporary outdoor seating in the front yard of the premises, as an integral part of that business, for consumption of food and/or refreshments by patrons. If the building on such a street is on a corner, the building shall be deemed to have a front yard both on such street and on the intersecting street. A seasonal permit shall be issued only if the following requirements are met:
- (1) The applicant shall have submitted to the administrative officer, with 10 copies to the Architectural Review Board of the Livingston Partnership Management Corporation ("the BID"), the following:
 - (a) Address of property and names of applicant and property owner;
 - (b) Contact name and phone number;
 - (c) Consent of property owner and other consents required by Subsection C(9) below;
 - (d) Color photograph of the property;
 - (e) Scaled drawing/rendering of the proposed project showing compliance with the design standards of this section; and
 - (f) Description of proposed furnishings and equipment.
 - (2) The area for such seating shall have a minimum front setback of 1.5 feet from the front property line. It shall have a minimum side setback of 1.5 feet from any driveway or off-street parking. The area for outdoor seating shall not impinge upon a public sidewalk or right-of-way. If the establishment is on a corner, no area for outdoor seating shall be closer than 25 feet from the intersection of the two roadway right-of-way lines nor shall it in any manner interfere with traffic visibility across the street corner.
 - (3) The seating in an outdoor seating area may be additional to the establishment's existing interior seating and shall not exceed the greater of 20 seats or 15% of such interior seating. No food or refreshment preparation or storage shall be permitted within the outdoor seating area; and all persons shall be seated when consuming food or refreshments within the area.
 - (4) Permitted outdoor seating areas may be delineated at their sides and front, and always without intrusion upon required setbacks, by planters, or by a fence which

is not taller than 36 inches at its highest point, is not less than 50% open, is not made of chain link or similar materials, and does not have sharp spikes or points or jagged or sharpened surfaces or other components that may cause injury. Any gates shall not open in such a way as to intrude upon any right-of-way, sidewalk, foot path, driveway or off-street parking area. The planters or fence shall define the seating area without creating a full barrier to viewing the seating area or the street and shall not bear any advertising or signage. Walls, partitions, trellises, roofs, canopies, awnings, arbors, or any permanent structures, other than a permitted fence, which cover, enclose or delineate the outdoor seating area are prohibited.

- (5) The outdoor seating area, including planters or fence, shall not physically displace or impinge upon required parking spaces or public sidewalks or rights-of-way and shall not increase the impervious coverage on the lot. The outdoor seating capacity shall not be included when making the calculation of required off-street parking spaces pursuant to § 170-94 E.
- (6) A clear pedestrian passageway, through the outdoor seating area, between the building and the public sidewalk or a driveway or off-street parking area shall be provided and shall not be impeded or obstructed. Such clear passageway shall have a width not less than the greater of four feet or the width of any building entrance which abuts the outdoor seating area.
- (7) Tables, chairs and other furniture must be of wood or metal, strong, durable, and of sufficient mass as to not be easily blown about. Dark and nonreflective colors are preferred. Umbrellas shall be designed with mechanisms to secure them against the effects of wind and shall not display any advertising. One portable menu sign not exceeding four square feet overall, including the base, is permitted within the outdoor seating area. Such sign shall not be placed upon a public sidewalk or right-of-way or any driveway or off-street parking area.
- (8) The outdoor seating area and its furnishings and equipment shall be kept clean. If table wait and bus services are not provided, covered receptacles shall be provided for deposit of garbage or trash and shall be emptied before overflowing. No equipment, dumpster, structure or enclosure for the storage of garbage or trash for collection shall be placed upon or adjacent to the outdoor seating area. Electronically generated or amplified music or sound are prohibited. Hours of operation of the outdoor seating area shall not be earlier or later than the hours of operation of the restaurant or purveyor. However, if the outdoor seating area is within 200 feet of a lot on which a residence is located, the outdoor seating area shall not operate between the hours of 10:00 p.m. and 7:30 a.m.
- (9) If the outdoor seating area would extend beyond the frontage of the applicant's enterprise so as to be in the frontage of some other business(es), the applicant shall have obtained the written consent of the owner of the building and of the tenants(s) or owner(s) of the other business(es).
- (10) The BID shall have reviewed the documents provided under Subsection C(1) above and shall have submitted its recommendations, in writing, to the

administrative officer. Such recommendations shall not be binding upon the administrative officer.

- (11) No alcoholic beverage, as defined in the Alcoholic Beverage Control Law (N.J.S.A. 33:1-1), as amended, is permitted in an outdoor seating area except:
 - (a) Under a license, duly issued pursuant to said law, permitting the serving of such beverage in that seating area; or
 - (b) If the outdoor seating is utilized exclusively by a restaurant following a bring-your-own policy for consumption of alcoholic beverages within the interior premises of the restaurant.
- (12) The administrative officer may, in his sole discretion, deny, suspend, or revoke a seasonal permit if he finds that the location, sidewalk width, volume of pedestrian traffic, existing or prior violation(s) of provisions of this section, or any other factor affecting public order, convenience or safety warrants such action.
- (13) Every application for a seasonal permit for outdoor dining shall be accompanied by a filing fee as set by the Township Council by resolution and a certificate of insurance naming the Township as an additional insured. A seasonal permit shall take effect upon issuance or on March 1 of the year for which issued, whichever shall be the later, and shall expire on October 30 of that year. When reviewing any application for a seasonal permit, the administrative officer may deny the application upon finding that requirements of this section were violated by the applicant during the prior outdoor seating season. [Amended 9-5-2006 by Ord. No. 35-2006]
- (14) Seasonal permits are temporary authorizations which expire on a specified date or upon earlier termination of the permit holder's business. Even if renewed, or if one or more subsequent permit(s) be issued, they do not create any permanent rights or vested interests and shall not be deemed or construed as to grant any waiver or deviation in regard to the Land Use Ordinance or zoning regulations in force when the permit was issued or subsequent thereto.
- (15) If a restaurant or purveyor who provided an outdoor seating area pursuant to permit ceases to do business, or to offer such seating, and is not replaced by another enterprise to which a permit for such area has been issued, any fence erected under authority of this § 170-92.1 shall be removed and the area shall be restored to its prior condition.

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF LIVINGSTON ESTABLISHING
A FILING FEE FOR SEASONAL PERMIT FOR OUTDOOR DINING

WHEREAS, the Code of the Township of Livingston provides for the payment of a filing fee for outdoor dining permit as set forth by Resolution by the Township Council; and

WHEREAS, an Administrative fee of \$50.00 is appropriate to cover administrative expenses.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Livingston, in the County of Essex, State of New Jersey that the Township establish a filing fee of \$50.00 to accompany every application for a seasonal permit for outdoor dining; and

BE IT FURTHER RESOLVED that this fee shall commence with applications filed for 2007 outdoor dining season; and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be published in the West Essex Tribune.

STEPHEN A. SANTOLA, Township Mayor

GLENN R. TURTLETAUB, Township Clerk

Approved as to form:

SHARON L. WEINER, Township Attorney

Adopted: 2/26/07

I HEREBY CERTIFY the foregoing to be
a true copy of a resolution adopted by
the Livingston Township Council.

Glenn R. Turtletaub, Township Clerk