

**RESOLUTION 6:17 - # 2 A OF 2020**

WHEREAS, the Town of Poughkeepsie Town Board, being mindful of the health and economic impacts of the COVID-19 crisis, has determined to consider a Local Law amendment to Chapter 210, "Zoning" of the Town Code, relating to the allowance of public and private premises for outdoor dining facilities and sidewalk seating; and by separate resolutions authorizing the temporary closure by the Highway Superintendent of one lane or portions of Collegeview Avenue and their use by food service establishments to operate outdoor dining facilities thereon as determined by the Development Director, and the creation of common public dining areas on Collegeview Avenue and elsewhere on Town properties as determined by the Supervisor or his designee; and

WHEREAS, a written recommendation was received from the Dutchess County Department of Planning and Economic Development dated June 10, 2020 determining that the Local Law and resolutions were matters of local concern, and

WHEREAS, the Town Board notes with appreciation the Planning Board's recommendation that the fee provisions of the Local Law be deleted, and it has made that draft change, now therefore

BE IT RESOLVED, that after reviewing the annexed EAF, the Supervisor is authorized to answer "No" to the questions on Part 2 of the annexed Environmental Assessment Form, and to complete a Negative Declaration determining that the adoption of this Local Law and the street closure and dining area resolutions will not cause a significant adverse environmental impact, now therefore

BE IT ENACTED, that the Town Board of the Town of Poughkeepsie, pursuant to a public hearing duly noticed and held on June 17, 2020 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, does hereby adopt amendments to Town Code Chapter 210, entitled "Zoning", to add §210-109.1, entitled

“Temporary outdoor dining facilities and sidewalk seating” attached hereto as Exhibit A and incorporated herein, with the language to be added underlined, the language to be deleted to be ~~stricken~~, and the Town Board does hereby waive a verbatim reading of said amendments and does here direct that said amendments be spread across the record as if they, in fact, had been read verbatim; and

BE IT FURTHER ENACTED, that said local law shall take effect immediately upon filing with the Secretary of State.

Dated: June 17<sup>th</sup> 2020  
 Moved: Jon Jay Baisley  
 Seconded: Michael Cifone

Motion passes/ fails: Ayes 6 Nays 0

\* VIA ZOOM      abstain 1

JEN/mem  
 t-6/9/2020  
 m-6/17/2020

		AYE	NAY	ABSTAIN
<u>PRESENT/ABSENT</u>	Councilman Renihan	<input checked="" type="checkbox"/>	___	___
<u>PRESENT/ABSENT</u>	Councilman Carlos	<input checked="" type="checkbox"/>	___	___
<u>PRESENT/ABSENT</u>	Councilwoman Lopez	___	___	<input checked="" type="checkbox"/>
<u>PRESENT/ABSENT</u>	Councilman Cifone	<input checked="" type="checkbox"/>	___	___
<u>PRESENT/ABSENT</u>	Councilman Woolever	<input checked="" type="checkbox"/>	___	___
<u>PRESENT/ABSENT</u>	Councilwoman Shershin	<input checked="" type="checkbox"/>	___	___
<u>PRESENT/ABSENT</u>	Supervisor Baisley	<input checked="" type="checkbox"/>	___	___

Exhibit A

BE IT ENACTED, by the Town Board of the Town of Poughkeepsie as follows:

§210-109.1 is hereby added to Article VIII of Chapter 210 (Zoning) of the Town of Poughkeepsie Code as follows:

210-109.1. Temporary outdoor dining facilities and sidewalk seating.

A. Purpose: These temporary use and occupancy regulations have been adopted by the Town of Poughkeepsie Town Board in response to the COVID 19 crisis in an effort to reduce the health and economic impacts of the crisis on Town residents, visitors, food service employees and food service establishments by encouraging social distancing, walking and the support of local businesses. Temporary outdoor dining and sidewalk seating, as permitted pursuant to these regulations, is intended to provide additional seating space for restaurants whose internal seating capacity has been reduced by social distancing requirements associated with the COVID 19 pandemic. During the time period covered by this section, temporary outdoor dining and sidewalk seating are hereby exempt from Site Plan or Special Use Permit review as required elsewhere in this Chapter. Instead, the following rules and regulations shall apply to such temporary outdoor dining and sidewalk seating.

B. These regulations apply to:

1. All Town of Poughkeepsie food service establishments in all zoning districts offering onsite customer seating for food consumption which on the date of adoption of these regulations held all required site plan, special use and other permits, certificates and approvals required for their operation.

2. Property owners and landlords who temporarily lease, sub-lease, license or otherwise authorize the use of their property by food service establishments seeking temporary outdoor dining and/or sidewalk seating.

C. Application: Food service establishments that wish to provide temporary outdoor dining and sidewalk seating shall apply to do so by submitting an application to the Director of Municipal Development. The prescribed application shall include such data and information as the Director determines to be necessary, including but not limited to:

1. Contact information for the establishment.

2. A scale drawing and written description of the area proposed to be permitted, the interior and exterior of the existing food service facility including pedestrian routing, and the layout of the exterior area to be permitted with details showing seating, service areas, spacing, lighting, ingress and egress, enclosure, landscaping, waste disposal, light and noise mitigation, electrical, sanitary and other utility services, and any proposed cover or weather protection.

3. Written consent from the owner or landlord of the private and public property on which the temporarily permitted facility will be located.

4. If the facility is to be located on a Town property or right-of-way, an agreement to indemnify, defend and hold the Town of Poughkeepsie harmless from all claims and expense relating to the use and occupancy of the temporarily permitted area together with proof of general liability insurance (\$1,000,000 per occurrence and aggregate) naming the Town of Poughkeepsie as additional insured.

D. Requirements:

1. Building and Fire Code requirements remain in effect for such uses and any proposed cover or weather protection may require permits from the Building Department.

2. Combined Indoor and Outdoor occupancy cannot exceed legal occupancy limit per the Certificate of Occupancy issued by the Town of Poughkeepsie Building Department.

3. Outdoor seating must be separated from vehicles and an acceptable barrier must be provided.

4. The outside time limits of permitted operations shall be 7:00 a.m. to 11:00 p.m., provided that the Director of Municipal Development may determine that more compressed hours are necessary to avoid neighborhood disturbance.

5. Establishments with temporary outside dining and sidewalk seating are subject to and responsible for compliance with all other local, County, State and Federal codes, laws, rules, regulations, and Executive Orders and Guidance, including but not limited to those of the Governor, the New York State Liquor Authority, the Dutchess County Department of Behavioral and Community Health, and the New York State Department of State.

E. Inspection. Temporary outdoor dining facilities and sidewalk seating may be inspected by the Town's Building and Zoning Code Enforcement personnel at any time. The Town's enforcement personnel may require changes as reasonably necessary at the applicant's site to further the stated goals of advancing public health, welfare, safety and economic restoration. Failure to cure a violation of any requirement of this section, or a required change ordered by the Town's Building or Zoning Code Enforcement personnel, within 10 days of the issuance of a Notice to Cure shall subject the operator of the establishment, after a hearing to be held within 15 days of the issuance of the Notice before the Director of Municipal Development if demanded, to

closure of the temporary outdoor dining or sidewalk seating area; provided however that if the violation is one which may imminently endanger the public health, safety, or welfare ten days Notice to Cure shall not be required.

F. Supersession: In adopting this Local Law, particularly as it relates to the authority of the Development Director to issue temporary outdoor dining and sidewalk seating permits, the Town of Poughkeepsie hereby supersedes any inconsistent provision of New York Town Law §§274-a(2)(a) and 274-b(2).

G. This Local Law shall take effect immediately on filing with the Secretary of State and these temporary regulations shall be in effect until April 30, 2021.