

ORDINANCE NO. 2019 -11

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW ROOFTOP DINING IN THE WAYNE BUSINESS OVERLAY DISTRICT (“WBOD”) AND TO PROVIDE REGULATIONS THEREFORE**

**IT IS HEREBY ORDAINED AND ENACTED** by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

**Section 1. Rooftop Dining Regulations.**

**Article XIIA Wayne Business Overlay District**

§280-53.6. Definitions is hereby amended to include the following definition:

**ROOFTOP DINING**

The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.

§280-53.7.F Use regulations is hereby amended to add Rooftop Dining as an accessory use in the WBOD Zoning District:

- F. (2) Rooftop Dining when accessory to a restaurant use with indoor seating, subject to the provisions of §280-53.16.

§280-53.9.B **Special regulations for the WBOD** is hereby amended to read as follows:

- B. Except for outdoor dining as permitted by §280-115.3 and Rooftop Dining as permitted by §280-53.16, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles, or equipment shall be stored, displayed, or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

§280-53.16. (Previously Reserved) is hereby entitled **Rooftop Dining Regulations** and shall read as follows:

- A. Rooftop Dining shall be permitted as an accessory use in the WBOD Zoning District when located on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:

- (1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.
- (2) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
- (3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.
- (4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.
- (5) Rooftop dining shall not be permitted in any building which contains a residential use.
- (6) Rooftop dining shall be permitted only between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
- (7) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
- (8) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of an unimproved lot located completely or partially within a Residential Zoning District.
- (9) The rooftop dining area shall not extend beyond the width and depth of the building upon which the principal restaurant is located.
- (10) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development Ordinance). In the event both adjacent streets have the same street classification, the rear of the rooftop shall be that area farthest from the adjacent street with highest average daily traffic.

- (11) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.
- (12) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. The bar shall be located toward the center of the roof.
- (13) Handicap access to the rooftop shall be from the interior space of the business within the principal building.
- (14) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the rooftop must be turned off when the rooftop area is not in use.
- (15) Food preparation on the rooftop shall not include an open flame.
- (16) Outdoor heaters shall meet the following requirements:
  - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
  - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.
  - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.
  - (d) No propane fired heaters shall be used on the roof.
- (17) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.
- (18) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (19) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining is in use. The applicant shall demonstrate, by means of an easement or long-term contract, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility.

- B. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.
- C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:
  - (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
  - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
  - (3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.
- D. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

**Section 2.** Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

**Section 3.** Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

**Section 4.** Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this 21 day of October, 2019.

**RADNOR TOWNSHIP  
BOARD OF COMMISSIONERS**

By:   
Name: Lisa Borowski  
Title: President

ATTEST:   
Robert A. Zienkowski, Secretary