

**ORDINANCE NO. 2012-09**

**RADNOR TOWNSHIP**

**AN ORDINANCE OF RADNOR, DELAWARE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 280, ZONING, OF THE CODE OF THE TOWNSHIP OF RADNOR, ESTABLISHING REGULATIONS FOR OUTDOOR DINING IN THE C-1, C-2, C-3, PB, GH-CR, AND PLO ZONING DISTRICTS**

**P R E A M B L E**

*The Radnor Township Board of Commissioners does hereby ENACT and ORDAIN, as follows:*

**Section 1.**

Chapter 280, Zoning, is hereby amended to permit outdoor dining as an accessory use on the same premises as a licensed food establishment that has indoor seating in the C-1 (Local Commercial), GH-CR (Garrett Hill-Conestoga Road) and PB (Planned Business) Districts through the following new subsections:

280-47 J. (4) Outdoor dining in accordance with the requirements of Section 280-115.3

280-49.8B(2)(e) Outdoor dining in accordance with the requirements of Section 280-115.3

280-59.C(4) Outdoor dining in accordance with the requirements of Section 280-115.3

**Section 2.**

Article I, Section 280-4 Definitions and word usage is hereby amended to add the following definition:

OUTDOOR DINING - A dining area with seats and tables located outdoors of a licensed food establishment (restaurant) that has indoor seating and which is located entirely outside the exterior walls of a building. These tables shall be used for the consumption of food and beverages.

**Section 3.**

Article XIIA, Section 280-53.6 Definitions is hereby amended to delete the definition of Outdoor Dining.

## **Section 4.**

**Article XX** General Regulations is hereby amended by adding a new Section 115.3 as follows:

### **Section 115.3 Outdoor Dining Regulations**

- A. Within the C-1, C-2, C-3, WBOD, GH-CR and PB Zoning Districts, outdoor dining shall be permitted as an accessory use on the same premises as a licensed food establishment (restaurant) that has indoor seating. To assure quality standards for customers and food safety, the following provisions shall apply:
- (1) All outdoor dining areas shall be subject to compliance with all applicable health, building, accessibility, fire, and plumbing codes of Radnor Township.
  - (2) Areas for outdoor dining shall not interfere with any means of ingress or egress to a building, or with any emergency or safety exits. Where the dining area extends into a public sidewalk or right-of-way, the following shall apply: A minimum sidewalk width, exclusive of the outdoor dining area, of 48 inches shall be maintained free and clear at all times for pedestrians (unless a greater width is required by the building and/or accessibility codes). Such area shall not include the outdoor dining area and shall be free of surface obstacles and obstructions (i.e., hydrants, streetlights, parking meters, and street trees.) (See Figure 13 - Editor's Note: Figure 13 is included at the end of this chapter).
  - (3) Pedestrian barriers. Outdoor dining areas may be enclosed and separated from the pedestrian or travel way to allow for the privacy of the dining patron and to permit the unimpeded flow of traffic. When the dining area is located within the interior of the property, enclosures may consist of a wall or fence, approved by the Township. The following minimum standards shall apply if the establishment chooses to use a barrier:
    - (a) Pedestrian barriers shall have sufficient weight to prevent them from being tipped or knocked over.
    - (b) If the pedestrian barrier is to be permanent, the method of attachment shall be subject to approval by the Township. No barrier shall be permanently attached to a public sidewalk or an area located within the right-of-way.
    - (c) Pedestrian barriers shall be at least 36 inches high to prevent a tripping hazard; unless more restrictive requirements are required by other municipal codes.
    - (d) Where pedestrian access to an outdoor dining area is not through a food establishment, the required opening shall not be less than 44 inches in width (see Figure 14 - Editor's Note: Figure 14 is included at the end of this chapter); unless a greater width is required by other municipal codes.

- (e) Pedestrian barriers shall be made of a durable metal such as wrought iron (see Figure 15 - Editor's Note: Figure 15 is included at the end of this chapter).
- (f) Pedestrian barriers shall not have legs or supports that protrude into a sidewalk more than two inches.
- (g) Prohibited Barriers:
  - [1] Fabric inserts (whether natural or synthetic fabric) of any size shall not be permitted to be used as part of a barrier (see Figure 16 - Editor's Note: Figure 16 is included at the end of this chapter).
  - [2] The use of chain link, cyclone fencing, chicken wire or similar appurtenances is prohibited. Materials not specifically manufactured for fencing or pedestrian control (including but not limited to buckets, food containers, tires, tree stumps, vehicle parts, pallets, etc.) and not expressly permitted elsewhere in these guidelines shall not be used as components of a barrier.
  - [3] Flower pots, planters, and other ornamental containers.
- (4) Furniture. To ensure outdoor dining in a quality environment, furniture shall be limited to the following materials, unless otherwise approved by the Design Review Board:
  - (a) Iron, cast: low-carbon iron, hand or machine cast parts, stainless steel connectors, hand ground to a smooth finish.
  - (b) Iron, wrought: heavy gauge, low-carbon, welded and finished with a hard abrasive paint.
  - (c) Steel, expanded: minimum of 13 gauge cold-rolled steel, low-carbon, welded and finished with a hard abrasive paint.
  - (d) Steel, wire: 13/14 gauge cold-welded, smooth ground joints, and abrasive-resistant finish.
  - (e) Aluminum, cast.
  - (f) Aluminum, extruded.
  - (g) Wood, frame
  - (h) Wood, wicker
  - (i) The use of upholstery and cushions shall be subject to review and approval of the Township's Code Officials and Health Officer.

- (j) The use of plastic furniture to satisfy the requirements of this subsection shall be prohibited (see Figure 17 - Editor's Note: Figure 17 is included at the end of this chapter).
- (k) The use of tarps or similar coverings to cover the furniture when not in use shall be prohibited.
- (5) Roof coverings. At the direction of the Township's Health Officer, all outdoor dining areas shall have an approved roof material available for patrons. The following shall apply:
  - (a) No advertising on umbrellas shall be permitted (see Figure 18 - Editor's Note: Figure 18 is included at the end of this chapter.).
  - (b) Flame-resistant material shall be used.
  - (c) If awnings are used, they shall be a minimum of six feet eight inches (6'-8") in height above the sidewalk or patio surface.
  - (d) Tents shall not be permitted over an outdoor dining area.
- (6) Signs. No signs advertising outdoor dining shall be permitted, unless approved pursuant to Article XXI of this chapter.
- (7) Parking. In addition to the parking requirements for the principal restaurant use, outdoor dining shall provide additional parking in accordance with the following:

<u>Number of Outdoor Seats</u>	<u>Required Number of Parking Spaces</u>
1-12	None
13-24	1 space per 4 seats after the first 12 seats.
25 – 50	1 space per 3 seats after the first 24 seats.

- (8) The number of outdoor dining seats shall be limited to a maximum of 25 percent of the total number of indoor seats in the associated principal restaurant use. However, at no point shall more than fifty (50) outdoor dining seats be provided at any one restaurant.
- (9) Outdoor dining shall be permitted between March 1<sup>st</sup> and November 30<sup>th</sup>. Hours of operation shall be from 8:00 a.m. to 10:00 p.m. All seating of patrons shall provide for the dining area to close at the required hour.

(10) Setbacks

- (a) Outdoor dining shall be permitted in the front, side, and rear yards of the property upon which the principal restaurant is located.
- (b) No outdoor dining area shall be established within 100 feet of the property line of a single family or two family detached or semi-detached dwelling unit located completely or partially within a residential zoning district.
- (c) No outdoor dining area shall be established within 100 feet of the property line of an unimproved lot located completely or partially within a residential zoning district.
- (d) Outdoor dining areas shall not be permitted to the rear or on either side of a principal restaurant building when said building is immediately adjacent to an existing single family or two family detached or semi-detached dwelling unit or residentially zoned district. However, the outdoor dining area can be located to the rear or side of the principal restaurant building when the outdoor dining area is more than 500 feet from the property line of the immediately adjacent single family or two family detached or semi-detached dwelling unit or residentially zoned district.
- (e) For the purposes of this Section A(10), the setbacks and requirements set forth in Subsections (b), (c), and (d) above shall not apply to any properties, dwelling units, or residential zoning districts separated from the accessory Outdoor Dining Use by a public road.

(11) Outdoor dining areas shall be located on a permanent surface. Temporary flooring shall not be used.

(12) Exterior Heating Systems. When heaters are used in an outdoor dining area, the following shall apply:

- (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
- (b) Heaters shall not be located on a public sidewalk or within a public right-of-way.
- (c) Heaters shall not be located closer than ten (10) feet from a means of ingress/egress into and/or out of a building or into and/or out of an outdoor dining area.
- (d) When heaters are located in outdoor dining areas, the owner/operator of the restaurant shall provide a plan for fire protection in accordance with applicable codes. Said plan shall be approved by the Township's Code Officials.
- (e) Where applicable, heaters shall be securely fastened to a wall or the floor of the outdoor dining area to prevent the heater from accidentally tipping over. Said fastening shall be subject to review and approval by the Township's Code Officials.

- (f) All gas fired heaters shall be equipped with safety shutoff valves that stop gas flow if flame is extinguished as well as a tip-over safety switch.
  - (13) Outdoor dining areas shall provide additional outdoor trash receptacles; which must meet the requirements of Subsection A(4) above.
  - (14) The sale of alcoholic beverages shall be incidental to the sale and consumption of food. Outside bar service and/or walk-up bar service for the sole purpose of the consumption of alcohol without the consumption of food is prohibited.
  - (15) Pets are not permitted in the outdoor dining area with the exceptions as identified in Chapter 170 food regulations (by reference) Section 46.982 - Limitations on animals.
- B. Outdoor Dining shall be permitted within the PLO District as part of an accessory cafeteria provided the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of 280-115.3.A.
  - C. Outdoor Dining shall be permitted by Special Exception in all other zoning districts as an accessory use on the same premises as an existing licensed nonconforming food establishment that has indoor seating; and shall be subject to the provisions of 280-115.3.A.
  - D. Storage of materials. At the conclusion of any outdoor dining season, all portable equipment (i.e., barriers, furniture, roof coverings, etc.) 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.
  - E. Outdoor dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all outdoor 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 a preliminary review.
    - (3) Once a preliminary review has been completed by the Community Development Department, the application shall be forwarded to the Design Review Board for an initial application for outdoor dining or when changes are proposed to the outdoor dining area. In addition to the application requirements established by the Design Review Board, the applicant shall provide samples of materials to determine compliance with this section.
    - (4) Upon a successful review and approval by the Design Review Board, the application shall be reviewed by the Community Development Department for final approval to determine compliance with safety standards, the Food Code requirements set forth in Chapter 170 of the Township Code, and other applicable Municipal regulations.

- (5) 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.
- (6) All locations shall be subject to periodic inspections for compliance with the standards of this Ordinance. Two or more violations of this Ordinance may result in a minimum seven-day suspension and/or revocation of all zoning, health, or building permits applicable to the outdoor dining use.
- (7) Noise. Outdoor dining shall be subject to Chapter 200, Noise. No amplified music or sound is permitted. All activities, including the playing of music or other forms of entertainment, shall comply with the noise limitations of the Township Ordinances and any other regulatory agencies having jurisdiction, as applicable.

### **Section 5.**

Article XI, Section 280-49 Special regulations, subsections A. and B. are revised as follows:

- A. Every use, other than a parking lot and outdoor dining, shall be completely enclosed within a building.
- B. Except for outdoor dining as permitted by 280-115.3, no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment, shall be stored, displayed or offered for sale beyond the front lines of a building. No outdoor vending machine, self-serving station or similar use shall be allowed in any required yard abutting a street or on a public sidewalk.

### **Section 6.**

Article XII, Section 280-53 Special regulations, subsections A. and B. are revised as follows:

- A. The requirement that a use be enclosed within a building shall not apply to outdoor dining or a used car lot in conjunction with an automobile sales agency.
- B. No goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building, except for outdoor dining and the display of automobiles not less than 20 feet from a street right-of-way line.

### **Section 7.**

Article XIII, Section 280-53.9 Special regulations, subsection B. is revised as follows:

- B. Except for outdoor dining as permitted by 280-115.3, 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.

**Section 8.**

Article XIII, Section 280-57 Special regulations, subsection B. is revised as follows:

- B. No goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building, except for outdoor dining and the display of automobiles not less than 20 feet from a street right-of-way line and also in the case of a motor vehicle service station.

**Section 9.**

Article XIV, Section 280-61 Special regulations, subsection C. is revised as follows:

- C. Except for outdoor dining, no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

**Section 10.**

Article XV, Section 280-63.C Accessory uses, subsection (2) is revised as follows:

A cafeteria or other service facility located within the building and operated for the exclusive use of the occupants of the building. An accessory cafeteria may include outdoor dining as permitted by 280-115.3.B.

**Section 11.**

Article XIIA Wayne Business Overlay District, subsection 280-53.7.F(2) is hereby deleted in its entirety.

**Section 12.**

Article XIIA Wayne Business Overlay District, subsection 280-53.16 is here by deleted in its entirety and replaced with the following:

This section intentionally left blank.

**Section 13.**

Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**Section 14.**

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

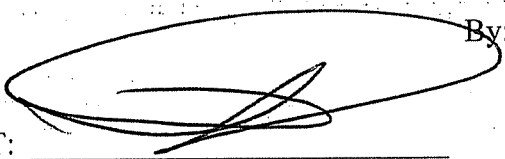



affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

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

**ENACTED** and **ORDAINED** this 8<sup>th</sup> day of April, 2013.

RADNOR TOWNSHIP

 By:

  
Name: Elaine P. Schaefer  
Title: President

ATTEST: \_\_\_\_\_  
Robert A. Zienkowski, Secretary