
AGENDA

BOROUGH OF WASHINGTON, WARREN COUNTY, NJ

October 18, 2022
7:00 PM

Zoom Information:

Zoom ID :
868 5322 4864

<https://us02web.zoom.us/j/86853224864>

STATEMENT OF ADEQUATE NOTICE

The requirements of the Open Public Meetings Law, P.L. 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Express-Times and Star Ledger and posted on the Boroughs website stating the time, place and purpose of the meeting as required by law.

FLAG SALUTE

ROLL CALL Brown, Conry, Heinrich, Noone, Norris, Ron and Cox.

Executive Session-Contractual-Police

AUDIENCE/COUNCIL APPEARANCE

Remarks, petitions, statements and testimony from guests

NEW BUSINESS

Agenda-Continued

OLD BUSINESS

ORDINANCES 1st Reading

Second Reading/Public Hearing will be November 1, 2022.

ORDINANCE 2022-12

An Ordinance of the Borough of Washington Amending Chapter 15 entitled, “Streets and Sidewalks” to create new article entitled “Sidewalk Dining Licenses”

ORDINANCE 2022-13

Amending Salary Ordinance 2022-11

RESOLUTIONS

RESOLUTION 2022-122-RESOLUTION TO VOID AND REPLACE CHECK

RESOLUTION 2022-123

RESOLUTION BY THE MAYOR AND COUNCIL OF THE BOROUGH OF WASHINGTON TO APPOINT CATHERINE MCCARTHY AS CONFIDENTIAL ASSISTANT

VOUCHERS

REPORTS

RECAP

COUNCIL REMARKS

Remarks, Reports, Discussions

EXECUTIVE SESSION-if needed

ADJOURNMENT _____ P.M.

ORDINANCE 2022-12

**An Ordinance of the Borough of Washington Amending Chapter 15 entitled, “Streets and Sidewalks”
to create Article XIII entitled “Sidewalk Dining Licenses”**

WHEREAS, the Mayor and Borough Council seek to permit and regulate sidewalk dining establishments within the commercial zoning districts (B-1, B-2, and Downtown Redevelopment Area) in Washington Borough; and

WHEREAS, restaurants and eating/drinking establishments located within these districts seek to use the sidewalks as outdoor dining areas; and

WHEREAS, the Mayor and the Borough Council seek to amend the Borough Code to establish regulations concerning the use of the sidewalks by restaurants and eating/drinking establishments within the Borough of Washington.

NOW, THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Washington, County of Warren, that the Code of the Borough of Washington be amended as follows:

Section 1. Article XIII entitled “Sidewalk Dining Licenses” of Chapter 75, entitled “Streets and Sidewalks”, is hereby created as follows:

Chapter 75 Streets and Sidewalks

Article XIII Sidewalk Dining Licenses

§75-80 Purpose

The purpose of this section is to permit sidewalk dining areas adjacent to existing restaurants selling prepared food in order to encourage the viability of restaurants and food-service establishments and to enhance the vitality of the Borough of Washington.

§75-81 Definitions

DOWNTOWN REDEVELOPMENT AREA

The area designated pursuant to the Borough of Washington’s Downtown Redevelopment Plan dated August 2022 and adopted pursuant to Ordinance 2022-10, as may be amended from time to time.

EATING / DRINKING ESTABLISHMENT

An establishment in which alcoholic beverages and / or food are served for on-site consumption. As used in this Chapter, an eating / drinking establishment shall include bars, brewpubs, cideries, meaderies, craft distilleries, craft breweries, fast food restaurants, taverns, and winery sales rooms as defined in the Borough of Washington Downtown Redevelopment Plan.

FAST FOOD RESTAURANT

A commercial establishment where food and drink prepared for immediate consumption; are purchased at a counter; and eaten on the premises, in the purchaser’s automobile, or off the premises. Bakeries, delicatessens, ice cream parlors, and candy shops, are examples of fast food restaurants.

RESTAURANT

A commercial establishment where food and drink are prepared, served and consumed. As used in this chapter, a restaurant shall not include a fast-food restaurant as defined herein.

SIDEWALK DINING AREA

A designated area of a public sidewalk where patrons may sit at tables or benches while consuming food and beverages ordered from and/or served by the establishment.

§75-82 Applicability

- A. The provisions of this section apply only to sidewalk dining areas on public property and/or within the public right-of-way.
- B. Sidewalk dining areas regulated by this section shall only be operated by, and adjacent to, existing, approved restaurants, eating/drinking establishments, and/or fast food restaurants that sell food or drink that is ready to be consumed.

§75-83. Areas in which temporary use of sidewalk areas are permitted.

Temporary use of the public sidewalk shall be permitted as an outdoor dining area pursuant to this Chapter only within the following zoning districts:

- A. Washington Borough Downtown Redevelopment Area;
- B. B-1 District; and
- C. B-2 District.

§75-84 License Required

No restaurant, fast food restaurant, or eating/drinking establishment shall utilize the public sidewalk area unless a license has been obtained from the Borough of Washington.

- A. Applicants shall apply for permit approval in accordance with the provisions of this chapter. All such applications shall be approved by the Zoning Officer and shall be referred to the Chief of Police, Construction Code Official, Fire Code Official, and other such Borough Official(s) the Zoning Officer deems appropriate, who shall provide the Zoning Officer with written reports of their opinions and recommendations regarding the application.
- B. Applicants shall meet all general ordinance requirements and all other laws, rules, regulations and codes applicable to the proposed activity.
- C. Contents of Submission to Zoning Officer. Applicants proposing to establish an outdoor dining area on a public sidewalk must provide the following information to the Zoning Officer:
 - (1) A layout of the proposed sidewalk dining areas, which shall include, but not be limited to the following: dimensions of the proposed sidewalk dining area, depiction of all aisles and routes of ingress and egress; indication of clearances between tables and between the seating area and the curb; depiction of freestanding umbrellas in the open position; depiction of service areas; and locations of all other equipment and fixtures that will be utilized.
 - (2) A landscape and screening plan, should planters or other screening mechanisms be employed;
 - (3) An illustration, rendering, and/or photograph of all furniture, planters, umbrellas, and/or signage proposed.

- (4) A Litter Control Plan, which shall include, but not be limited to, a description of the number and location of trash receptacles for the areas and the frequency with which the tables, surrounding area and adjacent public and private properties will be policed for litter.
 - (5) Hours of operation for the sidewalk dining area.
 - (6) A statement of how furniture and other fixtures will be secured or stored when not in use.
- D. The Zoning Officer shall review each application to ensure that the proposed operation of the sidewalk dining area will not interfere with pedestrian or vehicular traffic. A minimum of unobstructed 4 feet shall be maintained along the sidewalk for pedestrian traffic.
 - E. The Zoning Officer shall approve the hours of operation for each sidewalk dining area. In approving the hours, the Zoning Officer shall take into consideration the nature of the restaurant, eating/drinking establishment, or fast food restaurant at issue, the character of the neighborhood adjacent to the premises, and the character and nature of other uses in the vicinity of the premises at varying times of day. At no time will outdoor dining be permitted beyond 10:00 p.m.
 - F. BYOB privileges for wine or malt alcoholic beverages are allowed in sidewalk dining areas and, subject to N.J.S.A. 2C:33-7. Any licensed premises must secure and provide copies to the Borough Clerk of all necessary permits from the New Jersey Division of Alcoholic Beverage Control to extend their licensed premises in accordance with applicable New Jersey law.
 - G. The seating contained in a sidewalk dining area shall not be counted in determining any parking space requirement for a restaurant, fast food restaurant, or eating / drinking establishment use.
 - H. The permit granted pursuant to this Chapter shall allow the use of the sidewalk dining areas at any time of year. However, the area must be properly maintained at all times including complying with the litter control plan, complying with all applicable laws, rules, regulations and codes, properly securing and/or removing tables, chairs and other items during times of inclement weather and high wind.

§75-85 Application for License

An application, sworn to by the applicant, for a sidewalk dining area shall be filed annually with the Zoning Officer on forms supplied by the Zoning Officer. The forms shall require the following information and such additional information as deemed necessary:

- A. The name of the applicant and the address.
- B. The name and address of the restaurant, fast food restaurant, or eating / drinking establishment where the sidewalk dining area is to be maintained.
- C. Written consent of the owner of the premises, if other than the applicant.
- D. Any licensed premises must secure and provide copies to the Borough of all necessary permits from the New Jersey Division of Alcoholic Beverage Control to extend their licensed premises in accordance with applicable New Jersey law.
- E. A certificate of insurance providing at least \$1,000,000 of comprehensive general liability extending premises coverage to all activities associated with sidewalk dining and listing the Borough of Washington as an additional insured with respect to such activities.
- F. All information required by Section 75-84(C)
- G. A check payable to the Borough of Washington in the amount of the license fee required by § 75-86.
- H. Execution and filing with the Zoning Officer of an indemnification agreement pursuant to which the licensee, in further consideration of the issuance of the license, shall agree to forever defend, protect, indemnify and save harmless the Borough, its officers, agents and employees, from and

against any and all claims, causes of action, injuries, losses, damages, expenses, fees and costs arising out of or which may arise out of the licensee's operation of its sidewalk dining establishment.

- I. Execution and filing with the Zoning Officer of a maintenance agreement pursuant to which the licensee, in further consideration of the issuance of the license, shall agree, at the Borough's option, either to repair at its sole cost and expense any damage caused to the sidewalk or any Borough-owned property by the operation of its sidewalk dining operation, or to reimburse the Borough in full for all costs and expenses incurred by it in making any such repairs.
- J. Execution and filing with the Zoning Officer of an outdoor dining addendum permission for use of neighboring space if applicable.
- K. The Zoning Officer may require a bond to be filed by the licensee in an amount to be fixed by the Borough.

§75-86 Application Fees

- A. The fee for an initial sidewalk dining area permit application shall be **\$100**. The fee for a renewal application for substantially similar arrangement shall be **\$30** each year thereafter. For an application to be considered a renewal application, it must include substantially the same information as was on the initial application.
- B. No fees shall be pro-rated nor any part thereof refunded for any reason.

§75-86 License terms and conditions

- A. A sidewalk dining area shall be valid only through December 31 of a given year, and a new license must be obtained for each year.
- B. An outdoor dining area license may not be transferred.
- C. The license shall be displayed in a conspicuous place on the premises prior to the use of the premises for sidewalk dining.

§75-87 Regulations

The conduct of sidewalk dining area pursuant to a license issued under this article shall be subject to all of the following restrictions and requirements:

- A. Outdoor dining areas may be conducted in the Downtown Redevelopment Area, B-1 and B-2 zoning districts.
- B. The sidewalk dining area must not inhibit pedestrian traffic on public sidewalks, and an area must be open and unobstructed for pedestrian traffic between the closest edge of the tables and the curbline, which area shall have a minimum width of four feet. The passage area must be barrier free and clear of any obstructions.
- C. Restaurateurs and eating/drinking establishments shall not place anything in an alleyway or walkway or set up tables in such a manner as to block any alleyways or walkways or any building entrance/egress. It shall be unlawful to obstruct or reduce in any manner the clear width of any exit discharge passageway, as determined by the clear width opening of the entrance/egress door(s). The passageway shall be as straight as possible leading directly to the street.
- D. The only items permitted are tables, chairs, umbrellas and containers for the disposal of recyclable cans/bottles and garbage.
- E. Restaurateurs and eating/drinking establishments shall not place any table, sign, umbrella or other item in such a manner as to block any municipal signs, receptacles for garbage, public benches or other public amenity, including fire hydrants.
- F. Restaurateurs and eating/drinking establishments must provide for the disposal of recyclable cans/bottles and garbage. Public receptacles for garbage shall not be used. Sidewalk areas shall

be kept clean during hours of operation. Litter shall not be permitted on adjoining sidewalks or property.

- G. Restaurateurs and eating/drinking establishments are prohibited from serving drivers or passengers of vehicles. All customers in the sidewalk dining area must be seated.
- H. Restaurateurs and eating/drinking establishments are prohibited from using public utility hookups.
- I. Use of amplified sound systems are prohibited after 9:00 p.m., and all noise regulations must followed when in use. The Zoning Officer may issue additional restrictions based on location.
- J. All food preparation shall be in the regular kitchen area of the restaurant, not outside.
- K. All outdoor food service is subject to the regulations contained in Chapter 12 of the New Jersey Sanitary Code.
- L. The placement of outdoor tables shall be limited to the area immediately in front of existing and/or properly approved restaurants or eating establishments. No portion of any sidewalk dining equipment, including chairs, tables and opened umbrellas, shall encroach upon the sidewalk area in a manner to block, impede or cover adjacent storefronts, doors or windows in front of other business establishments without the written permission of the property owner and adjoining business.
- M. Freestanding umbrella(s) and base(s) and/or devices to secure umbrella(s) shall be permitted within a sidewalk dining area subject to the following:
 - i. One umbrella shall be permitted for each table within the seating area.
 - ii. Umbrella shall be adequately secured by a center base, arm base and/or otherwise adequately secured by a wind resistant structure.
 - iii. The umbrella, when in an open position shall not overhang beyond the designated seating area; the minimum clearance height will be seven feet and the maximum height of the umbrella from base to finial shall not exceed nine feet.
 - iv. Umbrellas placed within the seating area shall be uniform as to color and design to create a pleasant aesthetic affect and shall at all times be properly maintained in good working orders and aesthetic condition including but not limited to being clean and without tears.
- N. Tents and other temporary structures shall be prohibited within the sidewalk dining area.
- O. Permissible hours of operation shall be from 7:00 a.m. to 10:00 p.m.
- P. An applicant wishing to serve alcohol on the sidewalk dining area must execute a revocable agreement with the Borough to have conditional use of the sidewalk as a right-of-way. Any licensed premises must secure and provide copies to the Borough of all necessary permits from the New Jersey Division of Alcoholic Beverage Control to extend their licensed premises in accordance with applicable New Jersey law.
- Q. All items in the sidewalk dining area must be neatly stacked or removed and sidewalks shall be cleaned at the end of service daily. All such items must be secured when not in use.
- R. The Borough retains the right to suspend an outdoor dining area to allow for construction activity, utility repairs, and special events or for other reason as deemed appropriate by the Borough Council, with reasonable advance notice to be given to affected licensees.
- S. All sidewalk dining areas must be cleared of all furnishings in advance of any snowstorm or weather emergency declared by the Borough.
- T. Smoking shall be prohibited within outdoor dining areas. Smoking shall mean the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device. No-smoking signs or

the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at such outdoor dining area.

U. The licensee shall comply with all other Borough ordinances.

§75-88 Suspension and revocation of license

Any license may be suspended or revoked for good cause by the Borough Council, including but not limited to a misrepresentation of the information supplied in the application, the conviction of a crime, a violation of any ordinance, statute or government regulation or a violation of this article.

§75-89 Enforcement.

The Zoning Officer shall be responsible for licensing and the collection of fees. This chapter shall also otherwise be enforced by the Zoning Officer, Warren County Board of Health, and the Washington Police Department.

§75-90 Violations and penalties.

- A. Failure to abide by an established litter control plan shall constitute a violation of this Chapter, and shall subject the applicant to a fine in an amount not less than \$100 per violation.
- B. Any other violations of the provisions of this article shall be punishable by a fine not to exceed \$500 as determined by the Municipal Court. Each day the violation shall continue after a notice and a reasonable opportunity to correct or remedy the violation shall constitute a separate violation.

§75-100 Appeals.

Any person aggrieved by any action of the Zoning Officer, in the denial or revocation of an outdoor dining area, shall have the right to appeal to the Mayor and Borough Council. The appeal shall be taken by filing with the Borough Clerk, within 30 days after the notice of the action complained of has been served personally upon the licensee, or mailed, postage prepaid, to the licensee at the address given by the licensee in making application under §75-83 herein, a written statement setting forth fully the grounds for appeal. The Borough Clerk shall set a time and place of hearing for the appeal, at which time the Borough Council shall conduct a hearing and affirm, modify or reverse the action appealed from.

§75-101 Severability.

Each section of this article is an independent section, and the holding of any section or part thereof to be unconstitutional or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

Section 2. Section 22-10 of the Code of the Borough of Washington, entitled "Certain consumption prohibited," is amended as follows (deletions noted in strikethrough ~~thus~~ and additions noted in bold italic *thus*):

§ 22-10 Certain consumption prohibited.

- A. No change.
- B. No person shall have in their possession an open container of any type containing any malt or vinous beverage, spirits or alcohol. ***Unless such possession is within a licensed sidewalk dining area pursuant to Chapter 75, Article XIII of the Code of the Borough of Washington and in compliance with all restrictions set forth in Chapter 75, Article XIII of the Code of the Borough of Washington.*** No person

may consume malt or vinous beverages, spirits or alcohol upon private property unless with the expressed prior permission of the owner.

C. No change.

Section 3. All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This Ordinance shall take effect upon final passage and publication according to law.

<u>ORDINANCE 2022-13</u>		
AN ORDINANCE AMENDING ORDINANCE 2022-11 FIXING THE SALARY AND WAGES OF CERTAIN MUNICIPAL OFFICIALS, APPOINTEES, EMPLOYEES, AND STIPENDS APPLICABLE THERETO AND REPEALING PORTIONS OF PRIOR INCONSISTENT SALARY AND WAGE ORDINANCES BEGINNING JANUARY 1, 2022		

Confidential Assistant (to C.F.O.)	\$51,471	-	\$80,945 AN
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SECTION 1. Salaries herein shall be payable at the rate fixed in equal installments twice a month. Wages shall be payable twice a month. Any annual salary may be re-calculated to an hourly wage for any positions unless restricted by collective bargaining agreement. Any and all fees received by officials and employees of the Borough of Washington shall be paid unto the municipality.

SECTION 2. Any salary and wage ordinance adopted prior to the adoption of this ordinance with provisions inconsistent with the provisions of Section 1 of this ordinance shall, to the extent of any inconsistency, and only to the extent of the inconsistency, be repealed.

SECTION 3. In the event the position becomes vacant or no figure is listed, then the figures noted in the column with the heading "salary or wage range" shall be utilized by the appointing authority and any salary or wage paid within this range shall be deemed appropriate and valid.

SECTION 4. A public works employee who works eight hours in one day out of title in a job classification with a higher salary or wage range shall be entitled to additional compensation for the day at the rate of his or her current rate of pay plus ten (10) percent

SECTION 5. Any employees to be paid a stipend for CPWM shall have the stipend added to their base salary (pensionable earnings) to be paid twice per month. Any other stipends shall be paid twice a month, but are considered extra compensation and are not to be included in the base salary for pension purposes.

SECTION 6. *Dependent upon availability of Emergency Management Agency Assistance (EMAA) grant funds. In the event that EMAA funds are reduced and/or eliminated, stipend will be reduced in an amount commensurate with the reduction in grant funds.

SECTION 7. An employee who has medical coverage under a spouse's health benefit plan (not including NJ SHEBP) and waives participation in the Borough of Washington health benefits program shall be compensated at the rate of THREE THOUSAND DOLLARS (\$3,000.00) PER ANNUM pro-rated to compensate the employee for only those pay periods when the Borough is no longer obligated to make health benefit payments.

SECTION 6. The rate contained herein shall become effective retroactively to January 1, 2022.

RESOLUTION 2022-122
A RESOLUTION TO VOID AND REPLACE CHECK

WHEREAS, check #14450 was written October 5, 2022 on the Washington Borough's Operating Account in the amount of \$16.00; and

WHEREAS, check was made payable to Abilities of Northwest Jersey 56 East Washington Ave, Washington, New Jersey 07882; and

WHEREAS, the Treasurer's office was made aware that the above-mentioned check should have been made out to Louanne Cox; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey hereby authorizes the Treasurer to void and issue the aforementioned check.

RESOLUTION 2022-123

**RESOLUTION BY THE MAYOR AND COUNCIL OF THE BOROUGH OF WASHINGTON TO
APPOINT CATHERINE MCCARTHY AS CONFIDENTIAL ASSISTANT**

WHEREAS, the Borough of Washington has a need for a Confidential Assistant to fill the vacancy that will be left by the retirement of the Barbara Van Why effective December 31, 2022; and

WHEREAS, the Borough Interim Manager has recommended to the Mayor and Council the appointment of Catherine McCarthy as Confidential Assistant at an annual salary of \$66,000;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, hereby appoint Catherine McCarthy to the position of Confidential Assistant.