

MEMORANDUM

TO: Township of West Orange Planning Board

FR: Gerard M. Haizel, PP, AICP, Principal 

RE: **Master Plan Consistency Review – Ordinance 2925-25 - An Ordinance Amending and Supplementing Chapter 25 of the Revised General Ordinances of the Township of West Orange (Outdoor Cafes in the B-1, B-2 and PC Districts).**

DT: May 16, 2025

Pursuant to The *NJ Municipal Land Use Law (MLUL)* at N.J.S.A. 40:55D-26(a), the above referenced matter was referred to the Township Planning Board for review and comment to the Governing Body, regarding the proposed Ordinance's consistency with the Township's Master Plan.

For this review, the following items were reviewed:

- ✓ Township of West Orange Ordinance 2925-25
- ✓ Township of West Orange Master Plan Reexamination Report and Plan Element Amendments – 2019.

Overview

The Township Council approved amendment **Ordinance 2925-25**, on first reading, at its May 6, 2025 meeting. This ordinance amends and supplements Chapter 25, Section 11.10 of the *Revised General Ordinance of the Township of West Orange*, to require additional standards to be met regarding outdoor cafes located in the Township.

The scope and purpose of the amendment as stated in **Ordinance 2925-25** is as follows:

The portion entitled 'Outdoor Cafes in the B-1, B-2 and PC Districts' which specifies the requirements for outdoor cafes in the Township of West Orange, shall be repealed and replaced by the following language:

“Outdoor cafes shall be permitted subject to the standards and conditions of § 5-10 of Chapter 5, General Licensing, of the Revised General Ordinances of the Township of West Orange and in conjunction with the following conditions:

- a. Adequate access for emergency response personnel must be allowed to the main entrance of the serving establishment from the outdoor serving area as defined by Township fire regulations.*
- b. Adequate sidewalk access (at least four feet) must be maintained for easy passage of pedestrians on any public sidewalk or right-of-way.*
- c. Some form of formal space delineation, such as a removal fence, may be required during cafe business hours to define sidewalk space from cafe space.*
- d. Outdoor or patio type furniture must be used; upholstered furniture is prohibited.*
- e. Street furniture (seating, tables, fencing, etc.) must be moved into the serving establishment when the outdoor cafe is not open for business.*
- f. Cleanliness of the outdoor serving area is the responsibility of the serving establishment.*
- g. Signage, in addition, to that permitted for the serving establishment pursuant to § 25-15, is prohibited.*
- h. A sketch showing the proposed location of tables, chairs and umbrellas shall be prepared and submitted to the Director of Planning and Development for approval prior to the use of the sidewalk area.*
- i. The use of the described locations shall be authorized by a sidewalk cafe permit issued by the Director of Planning upon compliance by the applicant with the requirements of this subsection and the payment of an annual fee to be prescribed by Resolution at the approval of the Township Council.*
- j. Any permit issued by the Director of Planning shall designate the hours of operation of any sidewalk cafe or outdoor cafe which shall not exceed the hours of 12:00 p.m.(noon) to 10:00 p.m.*
- k. Nothing herein shall be deemed to be a waiver of the provisions of any health and/or licensing ordinance regulating the operation of a sidewalk or outdoor cafe.*
- l. The use of any sound amplification device on sidewalk or outdoor cafes is prohibited.*

- m. *Whenever amplified sound or music is being played inside an establishment with an outdoor cafe or sidewalk cafe, all doors and windows that open to the outside sidewalk or outdoor café shall remain closed, except as necessary for entry and exit.*
- n. *Effective May 30, 2025, the owner or operator of a restaurant that does not sell alcoholic beverages seeking to utilize for purposes other than selling alcoholic beverages in outdoor spaces as an extension of their businesses shall file an application with the Municipal Zoning Officer and such application shall include:*
 - (i) *a plan, sketch, picture or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces;*
 - (ii) *a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and grounds. If a business premises' parking lot is being used for the service and sale of either food or beverages, or both, the owner or operator of a restaurant that does not sell alcoholic beverages shall not encumber more than 75 (75%) percent of the lot's total parking spaces for service and sale, unless the parking lot contains less than eight parking spaces, and shall maintain at least one handicapped parking space in the parking lot.*
 - (iii) *written consent of the owner of the premises, if other than the applicant.*
 - (iv) *an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility; or an indemnification agreement with the municipality arising solely from the operation of the outdoor dining facility."*

Consistency with the Township of West Orange 2019 Master Plan Update

While the Township's Master Plan 2019 Update does not explicitly address outdoor dining, the Plan does recommend that the Land Use Regulation Ordinance "...Consider changes to permitted uses," in recognition of market changes for retail and other uses, "...including 'experiential' retail and activities, such as arcades, arts and crafts studios and stores that integrate dining, coffee and/or bar areas..." The proposed Ordinance, which amends the regulations governing the Outdoors Cafes, is in keeping with this recommendation of the Master Plan, as it proposes updates to the zoning standards governing various uses, as the market characteristics for the uses change.

Outdoor dining has always been a popular form of dining for many patrons of the Township's restaurants. This form of dining took on even greater popularity during and in

the aftermath of the Covid pandemic, when eating outdoors became even more common place. As a standalone use or an increasingly prevalent accessory to restaurants and similar establishments, the continued success and viability of many of these establishments has become more dependent on their outdoor dining capability.

While outdoor cafes are already permitted in the Township's B-1, B-2 and P-C zones, the proposed amendment seeks to better integrate this use into the zone, with fewer adverse impacts on the surrounding areas within the three (3) zoning districts where they are permitted.

Based on my review as detailed above, in my opinion, the amendment to the Land Use Regulation Ordinance proposed by Ordinance 2925-25 is consistent with the Township's Master Plan and furthers the goals and objectives of the same.