



TOWNSHIP OF WEST ORANGE
66 MAIN STREET, WEST ORANGE, N.J. 07052

Department of Planning and Development

SUSAN McCARTNEY
Mayor

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Mayor and Township Council

(SMccartney@westorange.org ; Council@westorange.org)

Municipal Building

66 Main Street

West Orange, New Jersey 07052

RE: Proposed Amendment to Land Use Regulations, Section 25-11.10 (2935-25)

Outdoor Cafes in the B-1, B-2 and PC Districts

Dear Mayor McCartney, Council President Krakoviak and Council Members:

Pursuant to *N.J.S.A.* 40:55D-64 and 40:55D-26, the Township of West Orange Planning Board (the "Board") has evaluated the Proposed Ordinance Amending and Supplementing Chapter 25, Land Use Regulations, Section 11.10, Outdoor Cafes in the B-1, B-2 and PC Districts (a copy being enclosed hereto). After reviewing the proposed Ordinance amendment and conferring with the Township's Planner, and hearing public comment at the Board's August 13, 2025, Special Meeting, the Board provides the following comments and conclusions.

The Planning Board consulted with the Board Planner, Gerard M. Haizel, PP, AICP, Principal of Nishuane Group who issued a report dated August 4, 2025. Mr. Haizel's report states that the proposed amendment is in keeping with the recommendation of the Master Plan 2019 Update, specifically that the Township should "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 Planner further notes that in the aftermath of the Covid pandemic, when eating outdoors became more commonplace, "the continued success and viability of many of these establishments has become more dependent on their outdoor dining capability."

The Board Planner, however, noted, and the Board agrees, that provision "c." which states, "*some form of formal space delineation which is aesthetically pleasing, such as a removable fence, shall be required in a parking lot or on sidewalks*" is subjective and raises concerns over interpretation of this provision, which may impact both implementation and enforcement. It is recommended that this provision should be eliminated or replaced by one that is clearer and more objective.

The Board also has concerns regarding other provisions of the ordinance:

d. Outdoor or patio type furniture must be used; upholstered furniture is prohibited. Board comment: We understand that this ordinance was originated 20 years ago and since that time, well-crafted, weather resistant and quick drying upholstered outdoor furniture is common.

e. Street furniture (seating, tables, fencing, etc.) must moved into the serving establishment when the outdoor café is not open for business. Board comment: Some of the outdoor cafés are small and may want to have outdoor furniture that is moved to an off-site storage area in the winter months and may not have the interior space to store the furniture inside at the end of each business day during those months that outside seating is available. A suggestion is that the language be changed to "When a serving establishment is not open, street furniture shall be moved to allow adequate pedestrian and vehicular mobility and safety."

i. The use of the described locations shall be authorized by a sidewalk café permit issued by the Director of Planning upon compliance by the applicant with the requirements of this subsection and payment of an annual fee to be prescribed by Resolution at the approval of the Township Council. Board comment: The application fee should be referenced to the fee ordinance and it should be made clear on the permit the effective dates and that the permit should be renewed every year.

m. Whenever amplified sound or music is being played inside an establishment with an outdoor café or sidewalk café, all doors must be solid, not storm or

screen, and windows that open to the outside sidewalk or outdoor café shall remain closed, except as necessary for entry and exit. Board comment: The description of “amplified” should be defined with an objective standard such as decibel levels.

n.(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 and the holder of an alcoholic beverage manufacturer license or retail consumption license shall not encumber more than seventy-five (75%) percent of the lot's total parking spaces, and shall maintain at least one handicapped parking space in the parking lot. Board comment: It is unclear if an establishment has fewer than 8 parking spaces can they use the entire lot for service and sale of food and beverage?

The Board finds that the amendment to the Land Use Regulation Ordinance proposed by Ordinance 2935-25 is consistent with the Township's Master Plan and furthers the goals and objectives of the same. The Board further urges the Council to review the comments set forth above and revise the ordinance accordingly.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert Bagoff', with a long horizontal flourish extending to the right.

Dr. Robert Bagoff, D.M.D.

Chair, Township of West Orange Planning Board

Cc: Diana Powell McGovern, Esq. (Via Email)

Richard D. Trenk, Esq. (Via Email)