

(additional material
for item 8A
Negative
Declaration)



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: LOCAL LAW PROVIDING FOR TEMPORARY OUTDOOR
DINING PERMITS DURING THE YEAR 2021
OUR FILE NO. 800.1(B)() (2021), 800. _____

DATE: JULY 10, 2021

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider
Donna M. Badura

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2013)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

Enclosed for the Town Board's consideration in conjunction with the SEQR Resolution of Designation and Determination previously forwarded please find the proposed Negative Declaration.

Should you have any questions or concerns, please do not hesitate to contact me.

MCT/sel

Enc.

cc: Joseph P. Pedi, Town Clerk
Lori Coady, Assessor
Gerald Canfield, Code Compliance Supervisor

State Environmental Quality Review

NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number N/A

Date July , 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Newburgh, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Adoption of A Local Law Providing for Temporary Outdoor Dining Permits During the Year 2021

SEQR Status: Type I ()
Unlisted (X)

Conditioned Negative Declaration: () Yes
(X) No

Description of Action:

The action consists of the adoption of a local law by the Town Board of the Town of Newburgh entitled "A Local Law Providing for Temporary Outdoor Dining Permits During the Year 2021." The Local Law will allow for the controlled utilization of certain outdoor spaces for dining activities, for a limited period of time, to assist business establishments in recovery from the effects of the COVID-19 pandemic emergency and the restrictions related to social distancing and decreasing maximum capacity of indoor spaces and the increased focus on operating outdoors and in the open air to the extent possible. The Local Law authorizes the Code Compliance Department to issue a permit to remain in effect for a period which expires; December 31, 2021 or such earlier date as the Code Compliance Supervisor determines warranted by the circumstances to a legally operating restaurant, eating and drinking place, fast food establishment, delicatessen and similar use with approved indoor seating as set forth in the Town of Newburgh Zoning Code, to provide outdoor seating for patrons upon complying with all of the requirements and conditions set forth in the Local Law. Application requirements will include a valid liability insurance certificate and a plan showing where the seating will be provided outdoors and potential seating capacity, not to exceed the maximum permissible indoor capacity. If seating is going to be provided in a designated parking area, the plan must also show vehicular and pedestrian access, internal vehicular circulation and the number of parking spaces available for patrons to demonstrate to the reasonable satisfaction of the Building Inspector, sufficient parking on the site. Seating shall not be proposed for fire lanes or other areas where it

would significantly impede emergency responses or the flow of traffic in the judgment of the Town's Code Compliance Department. The Code Compliance Supervisor may waive the permit application requirement if the establishment has already been permitted to have outdoor seating in 2021 pursuant to previously established protocols under emergency orders. All furniture and fixtures used in conjunction with outdoor dining must be of a temporary nature. No signage shall be permitted to be affixed to any temporary structures. No permanent improvements shall be made without appropriate approvals.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Town-wide

Reasons Supporting This Determination:

(See 617.6(g) for requirements of this determination; See 617.6(h) for Conditioned Negative Declaration)

The lead agency has considered the action and reviewed the environmental assessment form and other supporting information and documents, including comments it received from the public and any other comments from agencies to which the local law was submitted for comment, including the Town of Newburgh Planning Board and the Orange County Planning Department. The action is an unlisted action.

. The following summarizes the review of impacts:

- **Land** – There are no adverse impacts on land associated with this action. Because the action involves the adoption of a local law and not direct construction or other physical activity, there are no direct impacts on land. Accordingly, only indirect impacts require analysis. The proposed action will not have a significant adverse environmental impact on any unique or unusual land forms. The local law pertains to uses which have already been permitted, allowing the continued, temporary extension of seating outdoors for approved establishments with indoor seating, as was allowing during the Covid-19 health emergency by emergency order. The local law allows only temporary seating outdoor arrangements, permanent improvements are still subject to normal approvals, which generally would entail amended site plan approval by the Planning Board. The Town Board finds that there are no significant unmitigated impacts on land associated with this action.

- **Surface and Groundwater, Drainage and Flooding** – There are no adverse impacts on

drainage, surface or groundwater quality, or flooding associated with this action.

- **Air Quality or Resources** – The action would not create any adverse air quality or resource impacts.
- **Wildlife Species and Habitat** – No adverse direct or indirect effects on threatened or endangered species, non-threatened or non-endangered species or habitat would result with this action.
- **Agricultural Lands** – The action would not create adverse impacts on agriculture or agricultural lands. The local law does not introduce regulations with respect to agricultural uses.
- **Visual and Aesthetic Resources** – No adverse impacts on visual or aesthetic resources in the Town or adjoining areas will result from this action.
- **Historic and Archeological Resources** – There would be no adverse impacts on archeological or historic resources with this action.
- **Open Space and Recreation** – The action would not result in adverse impacts on open space or recreation.
- **Transportation and Traffic** – The action would not create any adverse traffic or transportation impacts.
- **Energy** – The action would not create any adverse impacts on energy.
- **Noise** – No adverse impacts on noise levels would result from the action. Outdoor dining activities will be subject to the Town’s noise and illumination control regulations.
- **Public Health and Safety** – The action would not create adverse public health and safety impacts.
- **Land Use and Community Character** – There are no significant adverse impacts on land use and community character associated with this action. This action is compatible with the Town’s *Comprehensive Plan Update*, as well as the *Orange County Comprehensive Plan*.
- **Affordable Housing** – The action would not adversely impact upon affordable or workforce housing.
- **Community Services (including Solid Waste)** – No direct adverse impacts on community

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services, solid waste collection, and water/utility consumption would result with this action.

- **Other Impacts/Growth-Inducing Impacts/Fiscal Impacts** – The action would not result in any other adverse impacts, including growth-inducing impacts. There appears to be no public controversy related to this action.

Based upon a careful and thorough review of the EAF and other supporting documents and information, the Lead Agency finds and determines that the proposed action would not have a significant adverse impact on the natural, built, or social environment (either in the short-term, long-term, or cumulatively) when compared with the criteria set forth in SEQR, 6 NYCRR Part 617.7(c)(1) and any other supporting information. The Lead Agency additionally determines that the facts and circumstances do not call for the preparation of an environmental impact statement.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

For Further Information: Town of Newburgh

Contact Person: Gilbert J. Piauqadio, Supervisor, Town of Newburgh

Address: 1496 Route 300
Newburgh, New York 12550

Telephone Number: (914) 564-4552

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is Sent to:

Chief Executive Officer, Town of Newburgh; and

1. Town Board of the Town of Newburgh
Town of Newburgh
1496 Route 300
Newburgh, New York 12550
2. Environmental Notice Bulletin

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Room 538
20 Wolf Road
Albany, New York 12233-1750 (via e-mail)

3. Orange County Department of Planning
124 Main Street
Goshen, New York 10924-2124

4. Planning Board
Town of Newburgh
308 Gardnertown Road
Newburgh, New York 12550

6. Zoning Board of Appeals
Town of Newburgh
308 Gardnertown Road
Newburgh, New York 12550

Any person who has requested a copy

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany, New York 12233-1750

For Unlisted Actions, a Copy of the Negative Declaration Must Only Be Sent to *The Lead Agency*