

Application for Outdoor Commercial Activity

Instructions to applicant(s):

This application must be submitted and approved prior to any outdoor commercial activity.

This application must be submitted by email to dquimby@uppergwynedd.org or by appointment with the Building Code Official.

This application must be accompanied by:

1. A drawing to scale showing the outdoor portion of the property proposed to be used for outdoor commercial activity. Included in that should be a drawing of the proposed use of sidewalk space, which shall allow for pedestrians and handicapped individuals to traverse the sidewalk. Location of any tables, chairs or other fixtures must be included.
2. A parking plan which provides sufficient parking to meet the needs of the proposed commercial activity. The parking plan must include: safe separation between customers and vehicles with the use of physical barriers and shall not occupy any handicapped parking area.
3. A proposed pedestrian circulation plan, including at least one ADA compliant route.
4. If applicant is not the property owner, separate signed written approval from the property owner.

Engineering plans are not required, however, applicant is responsible for accurately depicting the proposed plans.

APPLICANT/BUSINESS NAME: _____

ADDRESS: _____

EMAIL ADDRESS: _____

Responsible Party for Applicant:

Name: _____ **Title:** _____

Address: _____

Telephone: (H) _____ (C) _____ (W) _____

Email Address: _____

The Applicant requests:

_____ **Outdoor Retail Sales**

_____ **Outdoor Dining**

Describe in specific detail the outdoor portion of the private property that you intend to use. You must describe the activity proposed, hours of operation, the specific area to be used, and the dimensions and the location of any fixtures to be located in such an area.

If this application intends to use a portion of the public right-of-way, you must describe the area of the right-of-way and the specific dimensions. The Township reserves the right to refuse the use of any right-of-way pursuant to an existing Township ordinance or public safety concerns.

NOTICE TO APPLICANT

ANY MISSTATEMENT OF FACTS CONTAINED IN THIS APPLICATION, OR ANY VIOLATION OF THE TERMS OF ANY APPROVAL GRANTED HEREUNDER, SHALL CONSTITUTE GOOD CAUSE FOR THE REVOCATION AND SUSPENSION OF ANY PERMISSION, APPROVAL OR PERMIT GRANTED BY THE TOWNSHIP. ANY APPROVAL IS EFFECTIVE FOR 90 DAYS, OR LESS IF APPLICANT RESUBMITS ANOTHER APPLICATION.

BY SUBMISSION OF THIS APPLICATION AND AFFIXING HIS OR HER SIGNATURE HERETO, THE SIGNING PARTY REPRESENTS THAT HE OR SHE IS AUTHORIZED TO MAKE THE REPRESENTATIONS CONTAINED HEREIN ON BEHALF OF THE APPLICANT, AND SPECIFICALLY WARRANTS THAT APPLICANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWNSHIP AND ANY AND ALL AGENTS, EMPLOYEES, REPRESENTATIVES, SERVANTS, AND ELECTED AND APPOINTED OFFICIALS, AND REIMBURSE THE TOWNSHIP FOR ITS COSTS, INCLUDING ATTORNEY FEES, WITH RESPECT TO ALL CLAIMS, PENALTIES, FINES, DAMAGES, LOSSES, LIABILITIES, DEMANDS AND ACTIONS (HEREINAFTER REFERRED TO AS "CLAIMS") MADE AGAINST THE TOWNSHIP FOR PERSONAL INJURIES, PROPERTY DAMAGES, BUSINESS LOSSES OR OTHER MONETARY LOSSES WITHOUT LIMITATION ARISING OUT OF THE OPERATIONS OF APPLICANT, ITS AGENTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS DIRECTLY OR INDIRECTLY ARISING OUT OF THIS APPLICATION. THIS INDEMNIFICATION AND COST OBLIGATION SHALL APPLY EVEN WHERE THE CLAIMS INCLUDE A CONTENTION OF INDEPENDENT NEGLIGENCE BY THE TOWNSHIP.

APPLICANT UNDERSTANDS THAT IT IS RESPONSIBLE FOR COMPLIANCE WITH FEDERAL, STATE AND LOCAL ORDERS, INCLUDING BUT NOT LIMITED TO THOSE RELATING TO COVID-19 MITIGATION NOR PRE-EXISTING STATUTES AND REGULATIONS SUCH AS THE PENNSYLVANIA DEPARTMENT OF HEALTH REQUIREMENTS RELATING TO OUTDOOR DINING AS THEY MAY BE AMENDED SUBSEQUENT TO THIS APPLICATION.

SUBMISSION OF THIS APPLICATION AND ANY SUBSEQUENT APPROVAL FROM THE TOWNSHIP DOES NOT EXCUSE COMPLIANCE WITH ANY CONDITIONS IMPOSED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD OR THE MONTGOMERY COUNTY BOARD OF HEALTH OR EXPAND, MODIFY, OR OTHERWISE ALTER ANY LICENSE ISSUED TO THE APPLICANT OR THE APPLICANT'S ESTABLISHMENT BY THE PENNSYLVANIA LIQUOR CONTROL BOARD OR THE MONTGOMERY COUNTY BOARD OF HEALTH. IT IS THE APPLICANT'S SOLE RESPONSIBILITY TO ENSURE COMPLIANCE WITH THE SAME, AND, IF NEEDED, SECURE ANY PERMISSION NECESSARY FROM ANY

AGENCY HAVING JURISDICTION OVER THE OPERATIONS, INCLUDING BUT NOT LIMITED TO, THE PENNSYLVANIA LIQUOR CONTROL BOARD OR THE MONTGOMERY COUNTY BOARD OF HEALTH RELATED TO OUTDOOR SERVICE OR CONSUMPTION OF FOOD, BEVERAGES OR ANY OTHER PRODUCT.

BY SUBMITTING THIS APPLICATION, APPLICANT ACKNOWLEDGES THAT IT DOES NOT ACQUIRE ANY VESTED RIGHTS OR PRIVILEGES UNDER ITS PLANS AND WAIVES ANY RIGHT TO CONTINUE THE PERMISSIONS GRANTED BY THE PLANS BEYOND THE EXPIRATION OF RESOLUTION NO. 17-2020.

APPLICANT MUST STILL ABIDE BY THE TOWNSHIP CODE OF ORDINANCES.

APPLICANT: _____ DATE: _____

For Township Purposes only:

Fire Marshal

Date received: _____ Approved: _____ Denied: _____

Police Department

Date received: _____ Approved: _____ Denied: _____

Code Enforcement

Date received: _____ Approved: _____ Denied: _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF UPPER GWYNEDD TOWNSHIP, MONTGOMERY COUNTY, ESTABLISHING GUIDELINES AND POLICY FOR OUTDOOR SALES OF FOOD AND MERCHANDISE OF EXISTING BUSINESSES IN THE TOWNSHIP DURING THE CORONAVIRUS PANDEMIC

RESOLUTION 2020-

WHEREAS, Governor Wolf issued a Proclamation of Disaster Emergency on March 6, 2020, authorizing political subdivisions to act as necessary within the powers conferred by the Proclamation of Disaster Emergency to meet the exigencies of the emergency; AND

WHEREAS, on May 1, 2020, the Governor's Office presented a plan entitled Process to Reopen Pennsylvania which will ease social gathering restrictions in phases based upon public health indicators while requiring ongoing compliance with Centers for Disease Control and Pennsylvania Department of Health guidance for social distancing and workplace safety; AND

WHEREAS, federal and state health and regulatory agencies have called for the implementation of safety measures, such as increased workplace ventilation, increased physical distance between employees and customers, and alteration of hours based on building size and number of employees; AND

WHEREAS, the safety measures are advanced and made more effective by the temporary allowance of outdoor dining and commercial activity provided such dining and commercial activity occur consistent with all other state and federal statutes, regulations, and orders; AND

WHEREAS, pursuant to the Process of Reopen Pennsylvania, when Montgomery County enters the Yellow Phase, the Stay at Home Order is lifted, large gatherings of more than 25 people are prohibited, in-person retail is permitted, with curbside and delivery options preferable, indoor Recreation, Health and Wellness Facilities and Personal Care Services remain closed, and restaurants and bars may open outdoor dining; AND

WHEREAS, pursuant to the Process to Reopen Pennsylvania, when Montgomery County enters the Green Phase, large gathering of more than 250 are prohibited, restaurants and bars may open at 50% occupancy for indoor and outdoor dining, Personal Care Services may open at 50% occupancy and by appointment-only, indoor Recreation, Health and Wellness Facilities may open at 50% occupancy, and all entertainment (such as casinos, theaters and shopping malls) may open at 50% occupancy; AND

WHEREAS, at all times, regardless of the Phase, all Center for Disease Control and Prevention and Pennsylvania Department of Health guidance must be followed by all businesses and residents.

NOW THEREFORE, BE IT RESOLVED, that Board of Commissioners of Upper Gwynedd Township, hereby establishes guidelines and a policy for outdoor sale of merchandise and outdoor dining of existing businesses in the Township for a period of ninety days following

the enactment of this Resolution in areas on properties where it might otherwise be prohibited provided the following:

1. Retail Sales of Goods and Merchandise:

A. During both the Yellow and Green Phase:

- i. The merchant seeking to use outdoor space to conduct commercial activity shall be responsible for compliance with all state and federal statutes, regulations, and orders, as well permission from the landlord or owner of the property. The terms of this resolution and the guidelines to conduct outdoor commercial activity expressly do not excuse merchants from complying with federal and state orders, including but not limited to those relating to COVID-19 mitigation nor pre-existing statutes and regulations such as Pennsylvania Department of Health requirements relating to social distancing and cleaning. The terms of this resolution and the guidelines to conduct outdoor commercial activity and expressly do not excuse compliance with any conditions imposed by the Montgomery County Board of Health. It is the merchant's sole responsibility to ensure compliance with same and, if needed, secure any permission necessary from any agency having jurisdiction over the operations.
- ii. Prior to conducting any outdoor commercial activity, the merchant seeking same shall submit an application, including a plan, to the Township which shows:
 1. The proposed location of the outdoor activity along with a parking plan which provides sufficient parking to meet the needs of its customers. If a merchant uses spaces in a parking lot, the merchant shall provide safe separation between its customers and vehicles with the use of physical barriers approved by the Zoning Officer, Police Department and Fire Marshal and shall not occupy any handicapped parking area.
 2. The proposed use of sidewalk space, if any, which shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.
 3. The plan shall be subject to the approval of the Township Building Code Official and Township Fire Marshal.

2. Restaurants and Other Food Service Establishments:

A. During the Yellow Phase:

- i. The merchant seeking to use outdoor space to conduct dining shall be responsible for compliance with all state and federal statutes, regulations, and orders, as well permission from the landlord or owner

of the property. The terms of this resolution and the guidelines to conduct outdoor dining expressly do not excuse merchants from complying with federal and state orders, including but not limited to those relating to COVID-19 mitigation nor pre-existing statutes and regulations such as Pennsylvania Department of Health requirements relating to outdoor dining. The terms of this resolution and the guidelines to conduct outdoor dining expressly do not excuse compliance with any conditions imposed by the Pennsylvania Liquor Control Board or the Montgomery County Board of Health or expand, modify or otherwise alter any license issued to the establishment by the Pennsylvania Liquor Control Board or the Montgomery County Board of Health. It is the merchant or business owner's sole responsibility to ensure compliance with same and, if needed, secure any permission necessary from any agency having jurisdiction over the operations, including but not limited to the Pennsylvania Liquor Control Board and the Montgomery County Board of Health related to outdoor service or consumption of food, beverages or any other product.

- ii. Prior to conducting any outdoor dining, the merchant seeking same shall submit an application, including a plan, to the Township which shows:
 1. The proposed location of the outdoor activity along with a parking plan which provides sufficient parking to meet the needs of its customers. If a merchant uses spaces in a parking lot, the merchant shall provide safe separation between its customers and vehicles with the use of physical barriers approved by the Zoning Officer, Police Department and Fire Marshal and shall not occupy any handicapped parking area.
 2. The proposed use of sidewalk space, if any, which shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.

B. During the Green Phase:

- i. Any merchant who submitted an application and plan to conduct outdoor dining during the Yellow Phase, pursuant to Section 2(A)(ii)(1) above, must submit a revised parking plan if it intends to continue outdoor dining in addition to indoor dining.
3. The merchant seeking to use outdoor space to conduct commercial activity or dining shall abide by nuisance and noise regulations found in the Upper Gwynedd Township Code.
4. By submitting a plan, the merchant acknowledges that it does not acquire any vested rights or privileges under the plan and waives any right to continue the permissions granted by the plan beyond the expiration of this Resolution.

5. The merchant seeking to use outdoor space to conduct commercial activity or dining shall comply with all guidance issued by the Pennsylvania Governor's Office, the Pennsylvania Department of Health and the Montgomery County Board of Health with regard to safety and sanitary protocols and social distancing recommendations, as may be amended from time to time.
6. This Resolution and its authorization to conduct commercial activity and dining in outdoor spaces shall expire ninety days after its effective date.

RESOLVED and **ENACTED** this ____ day of June, 2020.

BOARD OF COMMISSIONERS
UPPER GWYNEDD TOWNSHIP

BY: _____
Liz McNaney, President

ATTEST:

Sandra Brookley-Zadell, Secretary

Exhibit “A”

GUIDANCE FOR BUSINESSES IN THE RESTAURANT INDUSTRY PERMITTED TO OPERATE DURING THE COVID-19 DISASTER EMERGENCY TO ENSURE THE SAFETY AND HEALTH OF EMPLOYEES AND THE PUBLIC

PURPOSE

The virus that causes the Coronavirus 2019 Disease (“COVID-19”) is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to safeguard public health and safety.

COVID-19 can be transmitted from infected individuals even if they are asymptomatic or their symptoms are mild, such as a cough. It can also be spread by touching a surface or object that has the virus on it and then touching your mouth, nose or eyes. This guidance document addresses the procedures businesses in the restaurant industry must follow to limit the spread of COVID-19 to the extent they are permitted to conduct in-person operations.

BUSINESSES SUBJECT TO THIS GUIDANCE

The Commonwealth is employing a regional and industry-specific approach to reopening non-life-sustaining businesses. All business owners should refer to the Commonwealth’s [Phased Reopening](#) website for the most current county designations.

SIGNIFICANCE OF RED-YELLOW-GREEN PHASES FOR RESTAURANT AND RETAIL FOOD SERVICE BUSINESSES

Restaurants and retail food service businesses located in counties designated as being in the Red phase are permitted to provide take-out and delivery sales only and may not allow the service or consumption of food or beverages on the premises.

Beginning June 5, 2020, restaurants and retail food service businesses located in counties designated as being in the Yellow phase are permitted to provide take-out and delivery sales, as well as dine-in service in outdoor seating areas so long as they strictly adhere to the requirements of this guidance including maximum occupancy limits.

- Indoor areas, including bar areas, of restaurants and retail food service businesses must be closed to customers except for through-traffic. Non-bar seating in outdoor areas (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating.
- Customers being served must be seated at a table.

All retail food service businesses, including restaurants, and bars located in counties designated as being in the Green phase are permitted to provide take-out and delivery sales, as well as dine-in service in both indoor and outdoor seating areas, so long as they strictly adhere to the requirements of this guidance including maximum occupancy limits.

- Bar seating may be utilized provided that customers are seated and comply with physical distancing guideline of at least 6 feet or physical barriers between customers. Standing in a bar area will not be permitted.
- A maximum of four customers that have a common relationship may sit together at the bar, while adhering to the physical distancing guidelines or barriers between other customers.

No business is required to conduct in-person operations, and should not do so if the business is unable to do so in accordance with all applicable guidance.

POLICY

It is the policy of the Administration to ensure that all businesses subject to this guidance conduct their operations in the manner best designed to prevent or mitigate the spread of COVID-19 and ensure the safety of their employees and the communities in which the businesses reside or serve. All businesses, even those that are authorized to maintain in-person operations, must minimize opportunities for personal interaction because such interactions provide greater opportunities for the transmission of COVID-19.

PROTECTING EMPLOYEES AND THE PUBLIC

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities pursuant to this guidance must do the following:

- Follow all applicable provisions of the Guidance for Businesses Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public, available [here](#), including provisions requiring the establishment of protocols for execution upon discovery that the business has been exposed to a person who is a probable or confirmed case of COVID-19.
- Require all customers to wear masks while entering, exiting, or otherwise traveling throughout the restaurant or retail food service business. Face coverings may be removed while seated.
 - Individuals who cannot wear a mask due to a medical condition (including children under the age of two years per CDC guidance) are not required to wear masks and are not required to provide documentation of such medical condition.
- Provide at least six feet between parties at tables, (i.e., the six feet cannot include the space taken up by the seated guest). If tables or other seating are not movable, seat parties at least six feet apart.
- Spacing must also allow for physical distancing from areas outside of the facility's control (i.e. such that pedestrians on a sidewalk can pass with at least six feet of distance to customer).
- Ensure maximum occupancy limits for indoor and outdoor areas are posted and strictly enforced. Maximum occupancy is calculated using the following two methods. The more restrictive number must be used.
 - Method 1. Limit to 50% of stated fire capacity or 12 people per 1,000 square feet if there is not a fire code number available. When no fire code number is available for outdoor dining, the 12 people per 1,000 square feet number should be applied.

- Method 2. Arrange the restaurant or retail food service business so that customers sitting at a table are not within six feet of any customers sitting at another table in any direction and calculate the maximum number of customers that can be accommodated.
- Don't use shared tables among multiple parties unless the seats can be arranged to maintain six feet of distance between parties.
- Close or remove amenities and congregate areas non-essential to the preparation and service of food or beverages such as dance floors, child play areas, interactive games, and video arcades.
- Train all employees on the importance and expectation of increased frequency of handwashing, the use of hand sanitizer with at least 60% alcohol, and provide clear instructions to avoid touching hands to face.
- Assign employee(s) to monitor and clean high touch areas frequently while in operation including entrance doors, bathroom surfaces, host stands etc., and continue to regularly clean all other areas of the restaurant or retail food service businesses. Clean and disinfect any shared items with which customers will come in contact such as tabletops, digital menus, check presenters, and digital payment devices after each customer use.
- Implement procedures to increase cleaning and sanitizing frequency in the back of house. Avoid all food contact surfaces when using disinfectants.
- Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that customers remain at least six feet apart in lines or waiting for seating or in line for the restroom. Encourage customers ordering take-out to wait in their vehicles after ordering.
- Close or remove amenities and congregate areas non-essential to the preparation and service of food or beverages such as dance floors, game areas, playgrounds, etc.
- Provide non-medical masks for employees to wear at all times and make it mandatory to wear masks while at the restaurant or retail food service business. An employee does not need to wear a mask if it impedes their vision, if they have a medical condition, or if it would create an unsafe condition in which to operate equipment or execute a task. Employers may approve masks obtained or made by employees according to Department of Health policies.
- Where possible, stagger work stations to avoid employees standing adjacent or next to each other. Where six feet of separation is not possible, consider spacing options that include other mitigation efforts with increased frequency of cleaning and sanitizing surfaces.
- Establish a limit for the number of employees in shared spaces, including break rooms, and offices to maintain at least a six-foot distance.
- Ensure employees do not share equipment to the extent possible (e.g., cooking equipment, trays, etc.).
- Verify that dishwashing machines are operating at the required wash, rinse and sanitize temperatures and with appropriate detergents and sanitizers.
- Follow all requirements of the Department of Agriculture's [Food Code regulations](#), even when altering from normal types of food delivery.

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities pursuant to this guidance are encouraged to do the following:

- Establish a written, worksite-specific COVID-19 prevention plan at every location, perform a comprehensive risk assessment of all work areas, and designate a person to implement the plan.
- Prior to each shift, ask that the employees self-measure their temperature and assess symptoms.
- Utilize reservations for dining on premises to maintain records of all appointments, including contact information for all customers.
- Use staff-facilitated seating where appropriate. If seating is not staff facilitated and tables cannot be moved to meet the physical distancing requirements outlined above, tables that should not be used must be clearly marked as out of service.
- Allow no more than 10 people at a table, unless they are a family from the same household.
- Use single-use disposable menus (e.g., paper) and discard after each customer, or utilize a written posting such as a chalkboard or whiteboard to relay menu information.
- Use technology solutions where possible to reduce person-to-person interaction, including mobile ordering; text or phone app technology to alert customers when their table is ready to avoid use of “buzzers;” and contactless payment options.
- Install physical barriers, such as sneeze guards and partitions at point of sale terminals, cash registers, bars, host stands, and other areas where maintaining physical distance of six feet is difficult.
- Consider methods to make point of sale terminals safer, including use of no contact applications, placement of a glass or clear plastic barrier between the employee and the customer, and providing a hand sanitizer station for customer and employee use after handling credit/debit cards, PIN terminals, or exchange of cash.
- Consider installing touchless door and sink systems or providing single-use barriers (e.g., deli tissues, paper towels) for use when touching door and sink handles.
- Schedule closure periods throughout the day to allow for cleaning and disinfecting, including bathrooms (i.e., after lunch service).
- Servers should avoid touching items on tables while customers are seated to the extent possible. Dedicated staff should remove all items from the table when customers leave.
- Use separate doors to enter and exit the establishment when possible.
- When protective equipment such as face coverings are used, launder daily and wash hands after touching/adjusting face covering while working.

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities in Yellow phase counties pursuant to this guidance are prohibited from doing the following:

- Using self-service food or drink options, such as buffets, salad bars, and condiments.
- Condiments must be removed from tables and dispensed by employees upon the request of a customer.
- Using reusable menus, other than digital menus sanitized after each use.
- Refilling food and beverage containers or implements brought in by customers.

This guidance does not authorize any specific external area near or adjacent to a business in the restaurant industry for outdoor dining. Businesses must obtain any permits or other authorization, as required, to serve food and beverages outside of physical indoor service areas.

FURTHER GUIDANCE AND SUPPORT

Answers to frequently asked questions (FAQs) involving application of the business safety order are available [here](#).

In addition to this guidance restaurants and retail food service businesses may wish to review the CDC's Considerations for Restaurants and Bars, available [here](#).

Help is available for people who are struggling with their mental or emotional health or feeling anxious or overly stressed. Contact the Crisis Text Line by texting PA to 741-741.

The Administration recognizes the difficulty of procuring materials businesses need to safely resume operations. If assistance is needed to locate masks and other supplies to carry out these required safety procedures, please visit DCED's [Business2Business Interchange](#).

ENFORCEMENT

Failure to strictly adhere to the requirements of this guidance may result in disciplinary actions up to and including suspension of licensure, including liquor licenses.

Law enforcement officers should refer to Enforcement Guidance available online [here](#).

If employees or customers want to report possible health and safety violations in the workplace related to COVID-19:

1. File a complaint with a local health department or a law enforcement agency.
2. Submit this [webform](#) to the PA Department of Health at www.health.pa.gov.
3. Review OSHA guidance and, if appropriate, [file a complaint](#) at OSHA.gov.

REMINDERS TO CONTAIN THE SPREAD OF COVID-19: SOCIAL DISTANCING AND OTHER REQUIREMENTS

When people need to leave their places of residence in connection with allowable individual activities, allowable essential travel, or by virtue of exemption from this policy, the Department of Health strongly encourages individuals to abide by the following social distancing requirements to:

- Maintain a distance of at least six feet from other individuals;

- Wash hands with soap and water for at least 20 seconds as frequently as possible, or use hand sanitizer if soap and water are not available;
- Cover coughs or sneezes with a sleeve or elbow, not hands; Do not shake hands;
- Regularly clean high-contact surface areas;
- When sick, stay at home;
- Follow all guidance on gathering sizes applicable in Yellow and Green counties.

ADDITIONAL INFORMATION

For the most up-to-date, reliable information, please continue to refer to the Commonwealth of Pennsylvania's website for Responding to COVID-19 in Pennsylvania: <https://www.pa.gov/guides/responding-to-covid-19/>.