

TOWNSHIP OF PEMBERTON
ORDINANCE NO. 13-2025

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE III ENTITLED “CONSUMPTION IN PUBLIC PLACES”

WHEREAS, the Township of Pemberton (“Township”) maintains licensing and zoning requirements for outdoor dining within the Township, according to permissions authorized during the COVID-19 pandemic; and

WHEREAS, on or about November 25, 2024, the Governor signed P.L. 2024, c.95 into law, codified at N.J.S.A. 40:55D-164 et seq. (the “Law”), which permanently sanctions outdoor dining for restaurants and certain alcoholic beverage retailers and manufacturers; and

WHEREAS, the Township seeks to update its Ordinances regarding outdoor dining and expansion permits to comport with the Law and allow for it to exercise its oversight and discretion under the Law to the maximum extent possible to protect the health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Pemberton in the County of Burlington, State of New Jersey, as follows:

SECTION 1. Article III of the Township Code entitled “Consumption in Public Places” is hereby amended and supplemented to include the following:

§64 Article III Consumption in Public Places

§64-15.1 Purposes

A. P.L. 2024, c.95, codified at N.J.S.A. 40:55D-164 et seq. (the “Law”), permanently sanctions outdoor dining for restaurants and certain alcoholic beverage retailers and manufacturers.

B. The Township seeks to update its Ordinances regarding outdoor dining and expansion permits to comport with the Law and allow for it to exercise its oversight and discretion to the maximum extent afforded under the Law to protect the health, safety, and welfare.

§64-15.2 Definitions

The following definitions that are derived from the Law shall be applicable to the terms in this Ordinance:

“Alcoholic beverage manufacturer license” or “license” means a plenary winery license, farm winery license, limited brewery license, restricted brewery license, cidery and Meadery license, and craft distillery license issued pursuant to R.S. 33:1-10.

“Alcoholic beverage retail consumption license” or “license” means a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumptions license, or club license issued pursuant to R.S. 33:1-12, or a concessionaire permit issued pursuant to Title 33 of the New Jersey Revised Statutes that authorizes the sale of all alcoholic beverages for consumption on the licensed premises.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on the business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L. 2024, c.95 which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.

“Premises expansion permit” means a permit issued to a manufacturer license holder or retail consumption license holder that entitles the license holder to use outdoor spaces as an extension of their business premises that they own or lease and that are located either on their business premises, contiguous to the business premises, or in a

non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L. 2024, c.95 for the purpose of conducting sales of food and beverages as allowed by law.

“Public sidewalk” means a sidewalk on the locally or county-owned right-of-way which is adjacent to the business premises or a portion thereof.

§64-15.3 Premises Expansion Permit

A. Pursuant to N.J.S.A. 40:55D-165, the holder of an alcoholic beverage manufacturer license or retail consumption license may apply to the Director of the Division of Alcoholic Beverage Control for a premises expansion permit.

B. Pursuant to N.J.S.A. 40:55D-165 (c), the Director shall transmit the application for a premises expansion permit to the Township Clerk and Police Chief and the Director “shall not approve or deny an application until it receives an endorsement or approval from the appropriate governing body officials.”

C. Upon the transmission of a premises expansion permit application by the Director of the Division of Alcoholic Beverage Control to the Clerk and Chief of Police, the Township Clerk and Police Chief shall forthwith forward the application to the Township Administrator.

D. The Township Administrator shall review the application with a reviewing panel consisting of the following officials: the Township Administrator, Township Attorney, Township Engineer, Zoning Officer, Code Enforcement Officer, Chief of Police, and any other officers that the Township Administrator deems appropriate.

E. The reviewing panel shall evaluate the application, including requesting and holding a meeting with the applicant if deemed warranted. The reviewing panel shall develop all relevant information and forward it to the governing body along with any recommended handling.

F. The governing body shall review the application and reviewing panel information. It shall recommend endorsement and/or approval of the application if it is believed that the application satisfies the statutory criteria and that the requested premises expansion permit would not interfere with the health, safety, and welfare of the Township of Pemberton. If the governing body finds the premises expansion permit application to be deficient, it shall set forth the deficiencies in the resolution.

G. The Township Clerk and Chief of Police shall provide a response to the Director consistent with the governing body’s resolution to the Director of the Division of Alcoholic Beverage Control.

H. License holders must apply for and receive approval for premises expansion permits annually.

§64-15.4 Outdoor Space Permit

A. Pursuant to N.J.S.A. 40:55D-166, 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 seeking to utilize, for purposes other than selling alcoholic beverages, outdoor spaces as an extension of their business by filing an application with the Township Zoning Officer.

B. The application to the Township Zoning Officer pursuant to this section shall include:

- (1) 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;
- (2) 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 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 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.

- (3) Proof of written consent of the owner of the premises, if other than the applicant, which shall include evidence of a properly issued Outdoor Sidewalk Café License pursuant to Section 5-18 of the extent and premises includes a public sidewalk.
- (4) An insurance certificate naming the Township 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; and
- (5) An indemnification agreement with the Township with respect to losses arising solely from the operation of the outdoor dining facility.

C. The Township Zoning Officer shall issue an approval to the applicant within fifteen business (150 days of the application being submitted and deemed complete, provided that the applicant meets and abides by all qualifications and requirements of P.L. 2024, c. 95, except that the Township Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation or upon any applicable law permitting the denial of a zoning permit.

D. An application under this Section shall not be considered an application for a variance under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

E. The Township may deny, revoke, or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of P.L. 2024, c.95, or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Director of Alcoholic Beverage Control and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee abased on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation related to the consumption of alcoholic beverages under its jurisdiction.

F. An appeal to any approval, denial, revocation, or suspension may be filed through the Clerk to the Township Council. The Township Council shall conduct a hearing and render a decision within thirty (3) days of the filing of the appeal. At the Township Council's discretion, it may designate by Resolution a Township official, or attorney licensed in the State of New Jersey to serve as a hearing officer in place of the Township Council for the purpose of conducting said hearing and rendering said decision.

G. A permit issued pursuant to this section to a restaurant without an alcoholic beverage retail license shall be subject to annual renewal.

H. An application pursuant to this section that has been approved for a holder of an alcoholic beverage manufacture license or retail consumption license shall have the endorsement submitted to the Director.

§64-15.5 Municipal Ordinances

A. N.J.S.A. 40:55D-168(a) provides that notwithstanding P.L. 2024, c. 95, "all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages shall apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of this section."

B. The provisions of this Section §64-15.5 shall not be construed as suspending or modifying any other provision of the Township's ordinances, which shall remain in full force and effect and are binding upon the holders of premises expansion permits and outdoor space permits.

IT IS FURTHER ORDAINED THAT, if any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

IT IS FURTHER ORDAINED THAT, all Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extend of their inconsistency only.

IT IS FURTHER ORDAINED THAT, the Township Council intends that al general provisions, terms, phrases, and expressions contained in this Ordinance be liberally construed in order that the Township Council's true intent and meaning may be fully implemented.

IT IS FURTHER ORDAINED THAT, this Ordinance shall take effect upon passage, approval, and publication, as required by law.

**TOWNSHIP OF PEMBERTON
ORDINANCE NO. 13-2025**

NOTICE OF PUBLIC HEARING

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE III ENTITLED "CONSUMPTION IN PUBLIC PLACES"

The foregoing Ordinance was introduced and passed on first reading by the governing body of Pemberton Township at a meeting held on June 4, 2025 and will be considered for final passage after a public hearing at a meeting of the said governing body to be held on June 18, 2025, at the Pemberton Township Municipal Building, 500 Pemberton-Browns Mills Road, Pemberton, New Jersey, at 6:00 p.m. prevailing time, at which time any interested member of the public may comment on said Ordinance. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

ATTEST: *Amy P. Cosnoski*
AMY P. COSNOSKI, RMC, TOWNSHIP CLERK