

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2020**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE
ENTITLED “ZONING”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 70 of the Town Code entitled “Zoning” in order to further assist those establishments required to operate at reduced occupancy by allowing certain businesses and organizations, including gyms, fitness centers, barbershops, hair salons, personal care services and religious institutions, to expand their operations into private parking lots after obtaining a permit.

Section 2.

Chapter 70 of the Town Code is hereby amended as follows:

§ 70-103.2 COVID-19 Outdoor Accommodations; Temporary suspension of off-street parking requirements for certain uses.

- A. Purpose. The provisions of this section are designed to temporarily allow certain places of public assembly or places of assembly uses (exclusive of restaurants uses), including gyms, fitness centers and religious institutions, and certain personal service uses, including barbershops, hair salons, personal care services, and similar uses, an additional way to expand their operations outdoors during the timeframe in which such establishments are subject to reduced interior occupancy or density restrictions arising from the COVID-19 pandemic; and to protect the public health, safety, and general welfare of the community.**
- B. Notwithstanding any provision in Chapter 70 of the Town Code to the contrary, the uses described in § 70-103.2 (A) may expand their operating areas by up to 50% of the previously approved floor area devoted to such use without providing additional parking spaces, subject to compliance with the provisions of this section.**
- C. No use described in § 70-103.2 (A) shall temporarily expand its capacity outdoors under § 70-103.2 of the Town Code without first filing with the Building Commissioner an application for such temporary expanded outdoor use and obtaining a permit. To obtain a permit under this section, an applicant shall not be required to seek an amended site plan approval from the Town Board or an amended conditional use permit from the Zoning Board of Appeals.**

- D. Temporary expanded outdoor use areas are not required to be located within the original confines of the establishment, but must comply with applicable public assembly, accessibility and fire safety regulations.**
- E. Subject to the provisions of this section, temporary expanded outdoor use areas may be established entirely within the property boundaries, within a parking lot, or in a courtyard. An eligible business may utilize one or more of the aforementioned locations as a temporary expanded outdoor use area. This section of the Town Code only permits temporary expanded outdoor use areas in the locations referenced herein.**
- F. A permit for a temporary expanded outdoor use area shall only be authorized where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. The Building Commissioner shall determine when a hazardous condition exists.**
- G. Application for permit.**
- (1) Such application shall be made to the Building Commissioner on a form provided by him and shall contain a sworn statement that provides the following information:**
- (a) A site plan showing the location of the use or service area;**
- (b) The required certificate of insurance, if applicable;**
- (c) A statement affirming that the applicant shall comply with all requirements set forth in this section; and**
- (d) A copy of this section signed by the applicant as recognition and acceptance of all of its terms.**
- (2) The Building Commissioner may require an applicant to provide such other information as may reasonably be required to establish compliance with the provisions of this section and other applicable building codes, ordinances and regulations.**
- H. Upon submission of a completed application, and a determination of compliance by the Building Department following a review of the application, the Building Commissioner shall issue a permit for a temporary expanded outdoor use area in one or more of the locations authorized in this section.**
- I. The following regulations are applicable to all temporary expanded outdoor use areas:**

- (1) Except within a mixed-use zoning district or approved mixed-use development, no temporary expanded outdoor use area shall be established within 50 feet of a residential property.**
- (2) Where necessary, sun shade may be provided either by individual umbrellas or an area-wide canopy.**
- (3) Businesses shall take all reasonable steps to control littering and shall dispose of all trash as otherwise required and shall keep the sidewalk, parking lot area, or other areas clean and free of litter, debris and putrescible waste.**
- (4) Businesses with temporary expanded outdoor use areas shall take all steps necessary to maintain safety and to immediately remedy any unsafe situation. It is the permit holder's responsibility to be aware of severe weather and remove or secure any temporary objects.**
- (5) A Town Building Inspector or Code Enforcement Officer may temporarily suspend a permit for a temporary expanded outdoor use area, at any time, due to violations of this section, threats to public safety, disorderly conduct, noise, disruption of other business operations or violations of other Town codes or other laws or regulations. The Building Inspector or Code Enforcement Officer may choose, but is not obligated, to reinstate a temporary expanded outdoor use area permit if he or she is satisfied that all violations have been remedied. An affected business may appeal a decision to suspend a temporary expanded outdoor use area permit to the Town Board, which shall conduct an evidentiary hearing to determine whether to reinstate the permit or continue the suspension for a stated period of time.**
- (6) Applicants shall provide a site plan for the premises for which the permit is requested showing all structures thereon and a sketch showing the proposed area of use.**
- (7) Use of any temporary expanded outdoor use area shall be permitted on Weekdays and Saturdays between the hours of 7:00am and 9:00 p.m., and on Sundays between the hours of 8:00am and 8:00pm.**
- (8) Outdoor lighting shall be installed in accordance with Chapter 70 of the Town Code.**

(9) The premises on which the temporary expanded outdoor use area is to be offered must have a valid certificate of occupancy and a public assembly license or place of assembly license, as applicable.

(10) There shall be no sound amplification or public address system permitted in any temporary expanded outdoor use area. The installation, use or maintenance of radios, speakers, televisions or like apparatus and live entertainment shall be prohibited in any temporary expanded outdoor use area.

(11) Definitions. For the purposes of this section, the following words and phrases are defined as follows:

BARRIER-- An object, natural or man-made, other than a bollard, which is used to obstruct the passage of motor vehicles and separate pedestrian and vehicular traffic. Natural objects may include large trees or boulders.

BOLLARD-- A vertical post designed and used to obstruct the passage of motor vehicles and separate pedestrian and vehicular traffic.

PLATFORM— A flooring material, usually constructed of a wood or composite decking materials, which is flush mounted to the roadway surface so that tables and chairs are not placed directly onto the pavement.

VEHICLE IMPACT PROTECTION DEVICE-- A device that is designed, engineered, and sited so as to effectively separate areas of pedestrian and vehicular travel and prevent automobiles from encroaching into areas which are solely intended for pedestrian use and travel; vehicle impact protection devices shall be comprised of bollards or barriers.

J. Use of Parking Lot Areas.

(1) Temporary expanded outdoor use areas within parking lots shall conform to the following:

(a) Such areas must be protected by a barricade, bollard or other vehicle impact protection device. A minimum distance of eight feet must be maintained between the area of use and the closest vehicular parking stall or access lane.

(b) Paved surfaces in parking lot areas must be kept in a clean and sanitary condition.

(2) Vehicle Impact Protection Devices Required.

(a) Vehicle impact protection devices shall be required to protect a temporary expanded outdoor use area located within a parking lot.

(b) Performance Standard. All vehicle impact protection devices shall be engineered and determined to be in compliance with ASTM Publication F3016.

(c) Location. Vehicle impact protection devices shall be located between any area designated for parking spaces and the beginning of the adjacent, converted parking area to be used as the outdoor use area. Barriers and bollards may be offset and staggered in terms of relative distance to provide protection.

(d) Barricades, bollards or other vehicle impact protection devices shall be equipped with reflectorized tape or other reflector devices adequate to warn others of its presence during night hours.

(3) No temporary expanded outdoor use area located within a parking lot shall occupy, encroach or impede into any New York State required accessible spaces or fire lanes.

(4) All platforms and ground coverings shall provide for accessibility. Notwithstanding any provisions of this section, outdoor parking lot uses shall be in all respects compliant with all applicable provisions of the Americans with Disability Act of 1990 as amended from time to time. Ramps and wheelchair edge protection shall be provided where required.

(5) Installation of any platform within a parking area shall be in compliance with the New York State Building Code relative to structural strength, fire safety, means of egress, accessibility, light, ventilation, and sanitary requirements.

(6) The Town may request a parking analysis to ensure that adequate parking for the location is provided.

K. Outdoor uses in courtyard areas or within property boundaries.

(1) Courtyard areas and locations within the boundaries of the property may be used as a temporary expanded outdoor use area, provided the written permission of the owner of the property on which the use is to be conducted is obtained and the requirements of this section are complied with and an unobstructed pedestrian access area of at least 60 inches is maintained and there is no obstruction of ingress and egress points.

(2) All platforms and ground coverings shall provide for accessibility.

Notwithstanding any provisions of this section, outdoor courtyard use areas shall be in all respects compliant with all applicable provisions of the Americans with Disability Act of 1990 as amended from time to time. Ramps and wheelchair edge protection shall be provided where required.

L. Canopies and tents; table umbrellas.

- (1) Installation of a canopy or tent shall be in compliance with the New York State Fire Code and the Nassau County Fire Ordinance. Proof of approval from the Nassau County Fire Marshal shall be provided to the Building Department prior to issuance of a permit under this section.**
- (2) Installation of individual table umbrellas shall be in compliance with the New York State Fire Code.**

M. Permit revocation. The Building Commissioner shall have the authority to revoke any permits issued pursuant to this section in the following instances:

- (1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.**
- (2) Where he finds that the permit was issued in error and should not have been issued in accordance with the applicable law.**
- (3) Where he finds that the expanded outdoor use area authorized under the permit is not executed in accordance with the provisions of the application, plans or specifications.**
- (4) Where the person to whom a permit has been issued fails or refuses to comply with a stop order issued by the Building Commissioner.**

N. Any temporary expanded outdoor use area permit issued under this section shall terminate on December 1, 2020. All items located within the temporary expanded outdoor use area shall be removed no later than December 8, 2020.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.