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Department of Community Affairs Issues Outdoor Dining Guidance to Help Restaurants and Similar Establishments Adapt to the Ongoing COVID-19 Pandemic
Guidelines Outline Requirements for the Use of Outdoor Space During the Winter Months

TRENTON, NJ – The Department of Community Affairs (DCA) today issued guidance for restaurants and similar establishments on the utilization of outdoor space during the winter months.

In June, the Division of Codes and Standards within DCA provided guidance on the issuance of permits, and the use of tents, tensioned membrane structures, and canopies per the Uniform Fire Code (UFC) and Uniform Construction Code (UCC). Due to the approaching winter weather conditions, establishments that want to maintain the use of tents past November 30, 2020, are required to apply for a UCC permit from their local construction office. Additionally, a permit for any electrical equipment, electrical wiring, or mechanical equipment that would otherwise require a permit must also be filed. Municipalities are encouraged to waive permit fees for tents in use past the November 30th deadline provided that the tents meet the snow bearing requirements or meet the guidance issued today.

In addition to the UCC permit, “operational items” such as portable cooking equipment used around and/or under the tent should be maintained in accordance with the Uniform Fire Code (UFC) and addressed by the local fire official. This would apply to the operation/usage of portable propane heaters and similar items.

“We recognize the restaurants in our state have been hit extraordinarily hard by the pandemic. We are doing everything we can to help these businesses stay afloat until we can return to more normalcy,” said Governor Phil Murphy. “The guidance issued today is part of our effort to help ease the burden this pandemic has placed on eating establishments. We are leaving no stone unturned as we work to assist the restaurant community.”

“Today’s guidance demonstrates our commitment to ensuring a safe outdoor dining experience while working with business owners to meet their needs,” said Lt. Governor Sheila Oliver, who serves as DCA Commissioner. “We urge all our municipalities to suspend permit fees for tents as much as possible to help our restaurants survive this winter season.”

The Division of Fire Safety is constantly evaluating new products and alternative solutions to see if any are acceptable to meet the needs of outdoor dining. It is the intent of the Division to ensure that

outdoor dining is done safely and in a code-compliant manner while at the same time working with business owners to meet their needs.

Tents that are already erected may not meet the structural provisions of the UCC building subcode, including winter conditions and snow loads. Local construction offices may issue a variation to allow the tent to remain under the conditions set forth in UCC. Construction officials are strongly encouraged to work with businesses to determine an appropriate variation. When a variation is granted, a snow plan must be filed with the construction official that would take effect in the event of a forecasted weather event that would exceed the certified conditions of the variation.

Establishments must file the UCC permit application and request for a variation, if applicable, by November 30, 2020. In order to provide sufficient time for the processing of permit and variation applications, municipalities may grant establishments a two-week extension from the November 30th deadline to remove the tent, provided that the establishment has filed a snow plan with the permit application that will be put into effect in the event of a forecasted weather event occurring within the time period of the extension.

Dining domes, including bubbles, igloos, huts, etc., are permitted for outdoor dining, subject to applicable restrictions. These structures, including pop-up covers, may be erected for use without a UCC permit when limited to less than 120 square feet in area. The dome should be able to be deconstructed on a daily basis, if needed, and should be secured, but not anchored, so that it can be readily lifted for emergency evacuation. Domes that are 120 square feet or greater in area and used during December 1 to March 31 would be subject to the UCC permit and variation provisions as noted above for tents. In either case, if temporary heating is provided (e.g. portable and/or cord and plug), the local fire official would oversee the heat source clearances.

Finally, as noted in DCA's previous guidance, if barriers are erected around the newly created outdoor dining areas, they should provide for egress openings similar to those provided for assembly uses. Existing plumbing facilities should be maintained within the building for use by patrons; the restaurant or similar assembly space should establish a proper protocol for maintaining social distancing for the usage of such facilities like restrooms.

In addition to the UCC, the International Code Council's "Considerations for Converting Outdoor Spaces into Temporary Seating Spaces" provides supplemental guidance and should be utilized. This guidance notes the applicable sections of the International Building and Fire Codes that would apply as adopted by the UCC. It can be accessed at:

https://www.iccsafe.org/wp-content/uploads/20-19250_GR_Outdoor_Seating_Code_RPT_FINAL_HIRES.pdf.

Previous guidance for Outdoor Dining and UCC/UFC permit issuance can be found at <https://www.nj.gov/dca/divisions/codes/alerts/covid19.html>.

Establishments can direct questions to DCA's Code Assistance Unit at (609) 984-7609.

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