



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 802  
TRENTON, NJ 08625-0802

PHILIP D. MURPHY  
*Governor*

LT. GOVERNOR SHEILA Y. OLIVER  
*Commissioner*

**Restaurants and Similar Uses – Guidance for the Utilization of Outdoor Space**

As restaurants and similar assembly spaces begin to adapt to a new normal, there are some items to consider when taking their business outdoors.

First, each business should consult with their local municipality and its governing ordinances regarding the possible space to be allotted for outside use. This should be done in connection with the requirements set forth under the Uniform Construction Code (N.J.A.C. § 5:23). For example, the UCC does not require a parking lot to be provided; however, if the municipality requires a parking lot, pursuant to the UCC, a percentage of the parking spaces must be accessible. [Please reference N.J.A.C. 5:23-3.14 (citing International Building Code, Chapter 11, table 1106.1). If a parking lot is converted to outdoor dining or other assembly spaces, the accessible parking spaces should be preserved to the greatest extent possible.

If the outdoor spaces used for dining or assembly remain uncovered other than table umbrellas, this would not be a UCC issue. However, if the areas are to be covered by canopies, tents, or similar structures, the following would apply per N.J.A.C. 5:23-2.14(b)4.

A UCC permit is **not** required for temporary structures, tents, tensioned membrane structures, and canopies as follows:

- Temporary structures - A UCC construction permit is not required for the erection, operation or maintenance of any temporary structures (excluding tents, tensioned membrane structures, and canopies) covering an area less than 120 square feet, including all connecting areas or spaces with a common means of egress or entrance and which remain in place for less than 180 days;
- Tents, tensioned membrane structures, and canopies - A UCC construction permit is not required for tents, tensioned membrane structures, and canopies that meet **all** of the criteria set forth in paragraphs 1-5 below. Regardless of whether a tent, tensioned membrane structure, and/or canopy meets the criteria set forth in paragraphs 1-5 below, such structures will remain subject to the permitting requirements of the Uniform Fire Code (N.J.A.C. § 5:70-2).
  1. Is 140 feet or less in any dimension and 16,800 square feet or less in area whether it is one unit or is composed of multiple units;
  2. Remains in place or will remain in place for fewer than 180 days;
  3. Used or occupied only between April 1 and November 30;
  4. Does not have a permanent anchoring system or foundation; and
  5. Does not contain platforms or bleachers greater than 11 feet in height.



Regardless of whether the above items require a permit, a UCC permit shall be required for any electrical equipment, electrical wiring, or mechanical equipment that would otherwise require a permit.

If barriers are provided around the newly created outdoor dining areas, they should provide for egress openings similar to those provided for in the Rehabilitation Subcode for assembly uses. [Please reference N.J.A.C. 5:23-6.14]. In addition, the existing plumbing facilities should be maintained within the building for use by patrons; the restaurant or similar assembly use should establish proper protocol for maintaining social distancing for the usage of facilities.

This Notice is being provided by the Department of Community Affairs in order to facilitate the transition to outdoor dining in New Jersey. Nothing herein should be construed as, in any way, invalidating a regulation or statute currently in effect.

If you have questions regarding the above, please contact the Code Assistance Unit at (609) 984-7609.