

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 7.11**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION
FOR LAS PATATAS DE RAFA LLC, DOING BUSINESS AS LA UNICA TO
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC
RIGHT- OF- WAY IN 2023**

WHEREAS, Rafa Ponce de Leon is the principal owner of Las Patatas de Rafa, LLC, d/b/a La Unica (“La Unica”) a restaurant located at 14 N. Main Street in the Borough of Pennington;

WHEREAS, Mr. Ponce de Leon and La Unica have applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 5 tables and up to 10 chairs on the Main Street side and driveway sides of the restaurant as shown in the attached sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for La Unica, on a temporary and conditional basis as set forth further below, is in the public interest;

WHEREAS, as of June 29, 2023, Mr. Ponce DeLeon and La Unica presented a Certificate of Insurance to the Borough Clerk demonstrating compliance with the insurance requirements of the Borough ordinance on outdoor dining, Section 215-94.H(3), and in reliance thereon and the advice of the Borough Attorney, the Borough Clerk then authorized use of the sidewalk for the stated purpose over the holiday weekend, subject to ratification by Borough Council at its next meeting;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that use of the sidewalk as proposed is hereby ratified and approved and Council further resolves as follows:

1. Rafa Ponce de Leon and La Unica are granted permission to locate 5 tables and up to 10 chairs on the sidewalk immediately adjacent to their restaurant along N. Main Street and the driveway side of the restaurant, **effective June 29, 2023**, provided the following conditions are met and continue to be met:

- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
- E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
- F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.
- G. The outdoor dining area shall not obstruct access to upstairs apartments or other businesses in the building.
- H. Rafa Ponce de Leon and Las Patatas de Rafa LLC, dba La Unica, shall indemnify

and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

I. Rafa Ponce de Leon and Las Patatas de Rafa LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Rafa Ponce de Leon or Las Patatas de Rafa LLC, dba La Unica.. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2023.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

This is to certify that the foregoing is a true copy of a Resolution adopted by the Borough Council of the Borough of Pennington at a meeting on July 10, 2023.

Elizabeth Sterling, Borough Clerk