

ORDINANCE NO. 05-2020
AN ORDINANCE ESTABLISHING REGULATIONS PERTAINING TO A TEMPORARY
EMERGENCY OUTDOOR DINING LICENSE AND ESTABLISHING TEMPORARY
OUTDOOR DINING AREAS ON PUBLIC PROPERTY.

WHEREAS, as a result of the COVID-19 pandemic and the emergency orders issued by State and Federal authorities, many businesses in the Borough of Sea Bright have been closed for several months, resulting in severe economic hardship to the owners, employees, and landlords of those businesses; and

WHEREAS, all restaurants in the Borough have been closed for several months with the exception of takeout and delivery services; and

WHEREAS, the Borough Council anticipates that restaurants will be allowed to open initially with only outdoor seating, if permitted by local ordinance and regulation; and

WHEREAS, the Borough Council desires to provide the owners and operators of restaurants in the Borough the opportunity to obtain a temporary license permitting outdoor dining service, without the cost, expense and delay of obtaining approval of a site plan by the Sea Bright Planning Board; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Sea Bright, County of Monmouth in the State of New Jersey, as follows:

SECTION ONE. Temporary emergency outdoor dining licenses may be issued by the Borough Clerk as set forth herein:

“TEMPORARY EMERGENCY OUTDOOR DINING LICENSE”

1. Purpose.

The purpose of this Ordinance is to establish guidelines for restaurants to procure a temporary emergency license to permit outdoor dining to assist in recovery from the economic hardships caused by the COVID-19 pandemic.

2. Designation of Temporary Outdoor Dining Areas.

There are hereby designated the following areas in which outdoor dining may be conducted hereunder:

- A. The area from the Northerly terminus of east Ocean Avenue to the northerly line of East Church Street.
- B. Municipal parking lot, Ocean Avenue. Such portions of the Municipal parking lot on Ocean Avenue, to be designated by the Chief of Police or his designate, sufficient to accommodate the outdoor dining areas requested by restaurants located on Ocean Avenue, pursuant to this Ordinance.
- C. A portion of the premises of a restaurant, not previously approved for a sidewalk café license that is located in a front, side or rear yard of the restaurant premises; provided, however, that the use of any such area for dining has not previously been denied by the Borough Council or the Planning Board. Applicants under this subsection C. shall comply with and be subject to all requirements of this ordinance, with the exception of subsection 4A. pertaining to payment for public parking spaces.
- D. Other areas to be designated by resolution by Council.

3. Application for Temporary Emergency Outdoor Dining License.

- A. All applications for emergency outdoor dining licenses shall be submitted upon forms provided by Borough Clerk's office.
- B. When a completed application is received by the Clerk, it shall be forwarded to the Chief of Police and the Director of Public Works who shall review the data contained in the application and report their recommendations to the Clerk within seven (7) days of the referral of the application.
- C. Should the application be deemed to be deficient, the applicant will be advised of the denial and the reason(s) therefore and the applicant may resubmit the application at no additional charge or fee.

4. Regulations and Requirements.

All applicants for a temporary emergency outdoor dining license shall provide the information required herein and shall agree to comply with the following regulations:

- A. The Applicant shall commit to a number of parking spaces the applicant proposes to occupy. The cost for each 10' x 20' space will be \$250.00 per month, to reimburse the Borough's lost parking revenue.
- B. Comply with any and all social distancing requirements of the State and/or Executive Orders.
- C. Submit with its application a drawing for review and approval:
 - (1) showing the number of seats, tables and chairs proposed;
 - (2) describing how the area will be separated from the rest of the parking lot and other restaurant areas (i.e. fencing; walls or other barriers);
 - (3) showing where receptacles for trash and recycling will be located;
 - (4) showing any proposed lighting fixtures.
- D. Agree to be responsible for the set up; maintenance; supervision and security of their area.
- E. Agree that all service to the area must end no later than 10:00 p.m. each day and that all patrons will be gone and the area cleaned up, with all trash removed from the area and the parking lot by 10:30 p.m. each day.
- F. No live or recorded music shall be permitted.
- G. If a licensed establishment, they will comply with all applicable ABC regulations; temporary emergency directives and Executive Orders that apply to sale and service of alcoholic beverages.
- H. Agree to indemnify and hold harmless the Borough, its officers, agents and employees from any and all claims or actions, pursuant to Section Five hereof. A signed indemnification will be required as will an insurance certificate with specified minimum coverages and naming the Borough as an additional insured.

5. Insurance required.

No temporary emergency outdoor dining license shall be issued unless the licensee shall have first filed an insurance certificate demonstrating that the following insurance requirements have been provided:

- A. The following language/wording must appear on the insurance certificate: "The certificate holder (The Borough of Sea Bright) is included as an additional insured as respects losses arising solely from the operation of the outdoor dining facility."
- B. Ten days' written notice of cancellation must be provided to the Borough Clerk.
- C. The insurance certificate must be written by a company licensed to do business in the State of New Jersey and rated A or better by A.M. Best Rating.
- D. The minimum insurance coverage requirements are:
 - (1) General liability: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (2) Products and completed operation aggregate: \$500,000.
 - (3) Personal and advertising injury: \$500,000.
 - (4) Each occurrence: \$500,000.
 - (5) Fire damage (any one fire incident): \$500,000.
 - (6) Medical expense (any one person): \$500,000.
 - (7) Worker's compensation: statutory requirements.

6. License fee; term.

The license fee for each and every premise on which a temporary emergency outdoor dining facility is conducted shall be fifty dollars (\$50.00). The fee shall be paid with the license application and is not refundable. All such licenses shall expire on September 30, 2020 unless extended by resolution by Council.

7. Revocation of license.

- A. Licenses issued under the provisions of this Ordinance may be revoked by the Borough Clerk, in writing, for any of the following causes:
 - (1) Fraud, misrepresentation or false statements contained in the application for license.
 - (2) Fraud, misrepresentation or false statements by the licensee in the course of conducting the business licensed.
 - (3) Any violation of this Ordinance.
 - (4) Conviction of any crime or offense involving moral turpitude.
 - (5) Conducting the business licensed in an unlawful manner.

- B. Revocation of a license may be appealed to the Borough Council in the same manner as set forth in section eight hereof for an appeal of a denial of a license. The licensee may not operate the business or enterprise licensed during the pendency of said appeal.

8. Appeals.

- A. Any person aggrieved by the action of the Borough Clerk in the denial of a license, shall have the right to appeal to the Borough Council. Such appeal shall be taken by filing with the Borough Council, within ten (10) days after the notice of the action complained of has been mailed to such person's last known address, by certified mail, return receipt requested, a written statement setting forth fully the grounds for the appeal.
- B. The Borough Council shall set a time and place for hearing on such appeal and notice of such hearing shall be given to the applicant. The decision of the Council on such appeal shall be final and conclusive.

9. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or imprisonment for a term not to exceed thirty (30) days, or both, in the discretion of the court."

SECTION TWO: All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION THREE: Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION FOUR: This Ordinance shall take effect upon its passage and publication according to law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on June 2, 2020 and will be further considered after a Public Hearing to be held remotely on June 12, 2020 at 8:30 am.

INTRODUCED: June 2, 2020
PUBLIC HEARING: June 12, 2020
ADOPTED: June 12, 2020

CHRISTINE PFEIFFER
Borough Clerk

BRIAN P. KELLY
Mayor