



2021
BOROUGH OF DUMONT
RESOLUTION

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
CHAE	✓			
ENGLESE	✓			
GORMAN	✓			
HARVILLA	✓			
ROSSILLO	✓			
STEWART	✓			
MAYOR LaBRUNO				
TOTALS	6			

Resolution No. 100
Date: March 9, 2021
Page: 1 of 6
Subject: Temporary, Conditional Re-opening of Retail Establishments
Purpose: Approval
Dollar Amount: _____
Prepared By: Marc Leibman, Esq.

Offered by: *Bozman*
Seconded by: *Englese*

Certified as a true copy of a Resolution adopted by the Borough of Dumont on above date at a Regular Meeting by:

Susan Connelly

Susan Connelly, RMC, Municipal Clerk
Borough of Dumont, Bergen County, New Jersey

RESOLUTION FURTHER IMPLEMENTING THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER 150 REGARDING THE TEMPORARY, CONDITIONAL RE-OPENING OF RETAIL ESTABLISHMENTS IN DUMONT BOROUGH PURSUANT TO BOROUGH PERMITTING REQUIREMENTS

WHEREAS, the Governor of the State of New Jersey has declared a state of emergency to exist as a result of the spread of the COVID 19 virus in New Jersey; and

WHEREAS, in an effort to inhibit the transmission of the virus the Governor has previously issued executive orders prohibiting the operation of what he has identified as non-essential businesses, which included retail sales establishments selling food and other goods; and

WHEREAS, on June 3, 2020 the Governor issued Executive Order 150 (hereinafter "E.O. 150" which is submitted herewith and made a part hereof by reference) which states that given the reduced risks of COVID-19 transmission outdoors, the State can begin to allow restaurants, bars, and other food or beverage establishments to provide in-person service at areas designated for food and/or beverage consumption ("outdoor dining") in accordance with CDC and DOH safeguards, while recognizing that indoor dining still poses a higher risk of transmission at this time than outdoor dining; and

WHEREAS, E.O. 150 indicates that in order to continue to attempt to limit the spread of COVID-19 and thus to protect public health, retail establishments can only open to the public to offer outdoor dining where such food and/or beverage consumption is conducted in a way that ensures critical Statewide health standards are met; and

WHEREAS, consistent with E.O. 150, on June 3, 2020, the New Jersey Department of Health, issued Executive Directive 20-0140 (hereinafter "E.D. 20-0140" which is submitted herewith and made a part hereof by reference) which provides the specific health practices which are required to be followed by retail dining establishments wishing to conduct business outdoors; and

WHEREAS, consistent with E.O. 150, on June 3, 2020, the Department of Public Safety, Division of Alcoholic Beverage Control issued SR 2020-10 (hereinafter "ABC 2020-10" which is submitted herewith and made a part hereof by reference) "Establishing Temporary COVID 19 Permits To Expand Licensed Premises"; and

WHEREAS, E.O. 150 specifically recognizes that municipalities are in the best position to make decisions on allowing restaurants or bars to expand their service footprint on their property and potentially into shared spaces in a way that comports with public safety, and

WHEREAS, Chapter 277, Outdoor Cafes, requires a license for outdoor dining with a licensing fee payment consistent with the regulations of that Chapter which limits outdoor dining to sidewalk areas only; and

WHEREAS, parking areas on private property in addition to sidewalk area may be available to restaurants for outdoor seating; and

WHEREAS, Resolution 123 adopted by the Borough Council on June 2, 2020 authorized the closure of certain streets to permit outdoor dining limited to Fridays through Sundays until November 1, 2020; and

WHEREAS, concurrently with the adoption of this resolution the Borough Council is adopting a resolution similar to Resolution 2020-123, to authorize the closure of certain streets to permit outdoor dining limited to Fridays through Sundays until November 1, 2021, or as such time as earlier terminated by the Borough,

WHEREAS, the Borough also desires to re-open retail services in the Borough of Dumont consistent with the provisions of E.O. 150, E.D. 20-0140, ABC 2020-10, in the context of the Borough's issuance of permits which will ensure that the re-opening will comport with

public safety;

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Dumont, County of Bergen and State of New Jersey as follows:

1. The requirement to obtain a license under Chapter 277 for outdoor cafes is temporarily suspended until December 31, 2021 (or such time as may be earlier terminated by the Borough) at which time the suspension may be continued by resolution of the Governing Body or otherwise lapse depending upon the state of emergency related to E.O. 150.

2. Restaurants and event halls may apply to the Borough Zoning Officer for a temporary zoning permit for outdoor dining, without fee, which shall be reviewed and approved subject to the following requirements:

Outdoor Dining – Process

- The Borough Zoning Official is hereby granted the authority and discretion to approve Outdoor Dining Plan and Outdoor Retail Display Applications pertaining to restaurants and retail establishments which existed at the date of the adoption of this resolution, subject to the review and approval as established herein, in order to permit said establishments to relocate existing tables/seats and/or locate new tables/seating to outdoor locations, subject to the following requirements and restrictions. The Borough Zoning Official shall consult with the Borough Planner on each Application and no Application shall be approved without such consultation. The Zoning Officer may further consult such other Officials he deems appropriate, e.g. Fire, EMS, Police.
- Applicants who wish to relocate existing approved table/s seats to other locations on site, or to locate newly acquired tables/seats outdoors, shall be required to submit an Outdoor Dining Plan application and a drawing depicting the proposed layout and location of the tables/seating outside of said establishment. This drawing shall also include, but not be limited to, depicting the following:
 - Written permission from the property owner for the submission of application
 - Confirmation of the number of existing, approved table/seats
 - A depiction of all aisles
 - Routes of ingress and egress
 - A litter control plan, indicating how and where litter will be disposed
 - Clearances/distances between tables and between the seating area outside and the curb line, building frontage, etc.
 - A brief written narrative describing the proposed method of food and beverage service, as well as how the proposed plan conforms to all safety and precautionary measures relating to social outdoor distancing and COVID-19 related issues
- Any approval of outdoor dining shall be subject to the following provisions:

- No outdoor dining shall be permitted until an application has been received and approved. A temporary zoning permit may be issued by the Borough Zoning Officer allowing outdoor dining. The temporary zoning permit shall bear the caption "Temporary Zoning Permit - COVID" and shall include a statement that "This Temporary Zoning Permit shall lapse on November 1, 2021 unless otherwise extended"
- No tables or seats shall be permitted to increase the currently approved capacity for the premises
- Subject to hours of operation of 7:00 AM to 11:00 PM
- No permanent structures shall be permitted for an outdoor dining area.
- Liability insurance indemnifying the Borough consistent with Chapter 277-11 shall be required.
- All permits issued in accord with this resolution may be revoked or modified by the Zoning Official, in his discretion, in order to protect the general welfare.
- All venues serving food and/or beverages shall abide by the directives contained in the June 3, 2020 Order of Judith Persichilli, Commissioner of the New Jersey Department of Health, 20-014, which is attached hereto and incorporated herein as if set forth in full.
- Outdoor dining shall be suspended at those times when the outdoor temperature is below 50 degrees. Determinations regarding such closures shall be made by the Borough Administrator and communicated by the Borough Administrator to those businesses effected by the weather-related closures.
- Fees for outdoor heaters are waived. All outdoor heaters must comply with the requirements of the Fire Department and a type 1 fire safety permit.

Outdoor Retail Display Areas – Process

- The Borough Zoning Official is hereby granted the authority and discretion to approve Outdoor Retail Display Plan Applications pertaining to retail establishments which existed at the date of the adoption of this resolution, subject to the review and approval of the entities established herein, in order to permit said establishments to locate outdoor display areas to outdoor private locations, subject to the following requirements and restrictions.

- Applicants who wish to locate outdoor retail display areas shall be required to submit an Outdoor Retail Display Area Plan application and a drawing depicting the proposed layout and location of the outdoor display area of said establishment. This drawing shall also include, but not be limited to, depicting the following:
 - Written permission from the property owner for the submission of application
 - A depiction of all aisles
 - Routes of ingress and egress
 - A litter control plan, indicating how and where litter will be disposed
 - Clearances/distances between outdoor display areas and curb lines, building frontages, etc.
 - A brief written narrative describing the proposed method of serving customers, as well as how the proposed plan conforms to all safety and precautionary measures relating to social outdoor distancing and COVID-19 related issues

- Any approval of outdoor retail display shall be subject to the following provisions:
 - No outdoor retail display area shall be permitted until an application has been received and approved. A temporary zoning permit shall be issued by the Borough Zoning Officer after consultation with the Borough Planner. The temporary zoning permit shall bear the caption “Temporary Zoning Permit - COVID” and shall include a statement that “This Temporary Zoning Permit shall lapse on November 1, 2021 unless otherwise extended”
 - Subject to hours of operation of 7:00 AM to 9:00 PM
 - No permanent structures shall be permitted for an outdoor retail display area. The provisions of this resolution shall be terminated with any proclamation from the Governor of the State of New Jersey that the state of emergency has ended, and all relevant ordinances of the Borough shall be applicable once again.
 - All permits issued in accord with this resolution may be revoked or modified by the Zoning Official, in his discretion, in order to protect the general welfare.
 - Liability insurance consistent with Chapter 277-11 shall be required.

3. Contingent upon their full compliance with E.O. 150, E.D. 20-0140 and upon their first having obtained a temporary permit from the Borough to do so, dining and retail store establishments may re-open and provide services within the physical boundaries and in accordance with the conditions approved by a permit issued by the Borough.

4. Contingent upon their full compliance with E.O. 150, E.D. 20-0140, upon their first having obtained an ABC 2020-10 Temporary COVID-19 Permit to Expand Licensed Premises, and upon their first having received a temporary permit from the Borough to do so, State/Borough liquor licensees may conduct alcohol beverage services within the physical boundaries and in accordance with the conditions approved by a permit issued by the Borough.

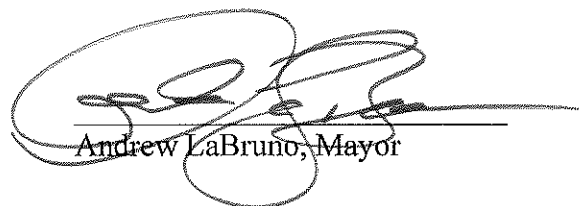
5. Failure of any dining or retail establishment to comply with any of the foregoing conditions may result in the revocation of the temporary permit issued by the Borough.

6. No authority to operate retail establishments outdoors shall take effect before April 1, 2021.

7. All temporary permits which may be issued by the Borough of Dumont hereby, shall terminate upon the termination of the applicable terms and conditions of E.O. 150 or upon further formal action of this Council, or December 31, 2021 whichever comes first.

8. To the extent that any Local Ordinance (except for police ordinances governing the consumption of alcohol in public places) may be construed as containing language which conflicts with E.O 150, E.D. 20-1040, ABC 2020-10 or with any Borough Permit which may be issued to retail dining establishments, they are hereby suspended.

9. The Mayor and all members of the Administration are hereby authorized to take all actions necessary to effectuate the purpose of this Resolution.



Andrew LaBruno, Mayor