

**BERNARDSVILLE BOROUGH  
ORDINANCE #2023-1975**

**CONCERNING OUTDOOR DINING AND AMENDING ARTICLE 12 OF THE  
BOROUGH CODE ENTITLED "ZONING"**

WHEREAS, the Housing, Property Maintenance and Zoning Compliance Advisory Committee has recommended that certain administrative requirements be added to the outdoor dining ordinance;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that the Borough Land Development Regulations are hereby supplemented and amended as follows:

**Section 2.** Section LD-12-12.9 entitled "Outdoor Dining" is hereby supplemented and amended by adding new paragraphs "h" through "l", as follows:

**"§ LD-12-12.9 Outdoor Dining.**

Outdoor Dining shall be permitted within the Downtown District as accessory to an existing indoor restaurant only subject to the following regulations:

- a. No outdoor table, shelf or other facility to hold food or drink while the same are being consumed shall be permitted in any nonresidential zone except in accordance with this subsection.
- b. The dining area must be on private property. If any portion of the dining area is on a sidewalk over which the public has a right-of-way, an unobstructed passage not less than four feet wide must be left between the dining area and any street, structure, hydrant, lamppost, highway signpost or other obstruction. No portion of the dining area may be closer than four feet to any fire lane, parking lot or loading dock. No portion of any required parking space or loading dock shall be converted to dining area, except that temporary outdoor dining facilities may be permitted in required parking space or loading dock areas if the Borough Zoning Officer determines that such temporary outdoor dining would not adversely impact pedestrian or vehicular traffic, result in insufficient parking for the restaurant and neighboring uses, or otherwise be a danger to public safety.
- c. The dining area shall be surrounded by a defining barrier not less than two feet high such as landscaping, a fence or ropes and posts. If any portion of the dining area is within 10 feet of any area used by vehicles and less than two feet above such area, the barrier shall be designed to protect the dining area unless the same is protected by trees or other means. Any immovable portion of the barrier, or any permanent roof, arbor,

platform or similar structure shall be considered a site improvement for the purpose of § 12-12.4, Administrative Procedures, requiring site plans proposing site improvements to be drawn by a licensed person. The placement of tables and chairs in the dining area and the provision of passages through the barrier shall not obstruct entry to or exit from any building. Folding chairs are prohibited. No advertising or product names are permitted on any tablecloths, chairs or umbrellas in the dining area.

- d. No use of the dining area shall be permitted after 10:00 p.m. or before 6:00 a.m. Sunday through Wednesday. Outdoor dining shall not be permitted after 11:59 p.m. or before 6:00 a.m. Thursday through Saturday.
- e. Convenient containers for trash and recyclables shall be provided. The operator of the dining area shall keep it clean, sanitary and free from litter.
- f. With the permission of the Board of Health and/or the Fire Department as to the maximum number of people in the indoor and outdoor spaces, the restaurant may serve indoor and outdoor diners simultaneously.
- g. Restaurants having outdoor dining facilities must keep all outdoor equipment and furnishings in good condition and repair. Tables, chairs, umbrellas, awnings and other furniture used in the outdoor facilities must be kept free of rips, tears and broken components. Broken items shall be removed from outdoor areas promptly. All outdoor items including the tops of umbrellas and awnings should be kept in a clean and sanitary condition.
- h. Outdoor chairs and tables for each establishment shall be of a uniform style. Cloth items, including awnings and umbrellas shall be of a uniform color scheme and materials. Colors shall be earth tones from white through natural "red."
- i. All outdoor furnishings and equipment shall be removed from pedestrian routes from December 1 through March 31 to facilitate removal of ice and snow. During such period, outdoor furnishings should be stored so that they are not visible from the street and neighboring lots.
- j. By March 30th of each year establishments providing outdoor dining must deliver a written outdoor dining plan to the Zoning Officer and a fee of \$100.<sup>1</sup> The plan shall include the following information and such other additional information, if any, as may be requested by the Zoning Officer as she or he deems necessary to determine compliance with the Borough's ordinances:
  - i. A description of the proposed design and location of the outdoor dining or outdoor seating, its dimensions and all temporary structures, equipment, and apparatus to be used in connection with its operation, including tables, temporary fences and barriers, planters, service carts, chairs, awning, umbrellas (including

any name to be displayed thereon), lighting and electrical outlets (if any) and a diagram of the above items; and

ii. A statement of the seating capacity of the proposed outdoor dining or outdoor seating and of the existing restaurant or service business actually operated by the applicant in the principal building.

k. The Zoning Officer, after reviewing this submission, shall recommend approval, disapproval, or modification of the plan within 10 business days following its submission. The Zoning Officer shall refer the plan to the Fire Chief, the Chief of Police, the Construction Official, the Fire Marshall, the Board of Health, the Borough Engineer and/or the Borough Planner for their review and recommendations.


l. Failure to comply with the approved plan will subject the restaurant to the penalties set forth in Section 1-5 of this Code.”

**Section 2.** Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

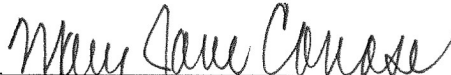
**Section 3.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

  
Anthony Suriano, Borough Clerk

COUNCIL OF THE BOROUGH OF  
BERNARDSVILLE IN THE COUNTY  
OF SOMERSET

By:   
Mary Jane Canose, Mayor

*1<sup>st</sup> Reading and Introduction:* July 10, 2023  
*1<sup>st</sup> Publication:* July 13, 2023  
*Referral to Planning Board:* July 11, 2023  
*Notice to County Planning Board Prior to Adoption:* July 11, 2023  
*Notice to Clerks of Adjoining Municipalities (if required):* July 11, 2023  
*Notice to Affected Property Owners (if required):* n/a  
*2<sup>nd</sup> Reading and Adoption:* August 14, 2023  
*2<sup>nd</sup> Publication:* August 2<sup>nd</sup>, 2023  
*Filing with County Planning Board:* August 18, 2023