

**BOROUGH OF BEACH HAVEN
COUNTY OF OCEAN**

ORDINANCE #2024-18C

**AN ORDINANCE AMENDING CHAPTER 45 ENTITLED
“ALCOHOLIC BEVERAGES” TO ESTABLISH A “THEATER
LICENSE” PURSUANT TO N.J.S.A. 33:1-19.7 ET SEQ.**

STATEMENT OF PURPOSE

The purpose of this Ordinance is to amend Chapter 45 of the Borough of Beach Haven Code, pursuant to the authority granted by N.J.A.C. 13:2-41.4, which, pursuant to N.J.S.A. 33:1-19.7, authorizes municipalities to issue a plenary retail consumption license to a nonprofit corporation which regularly conducts musical or theatrical performances or concerts for which admission is charged.

LEGISLATIVE FINDINGS

WHEREAS, N.J.S.A. 33:1-19.7 authorizes the Borough to issue a plenary retail consumption license to a nonprofit corporation which regularly conducts musical or theatrical performances or concerts for which admission is charged, aptly titled a “Theater License”; and,

WHEREAS, N.J.A.C. 13:2-41 et seq. regulates the issuances and authorization of these plenary retail consumption licenses; and,

WHEREAS, the governing body has concluded that the Borough and the community at large would benefit from the allowance of issuance of a plenary retail consumption Theater License to a nonprofit corporation which regularly holds or conducts musical or theatrical performances or concerts for which admission is charged.

NOW THEREFORE, BE IT ORDAINED by the governing body of the Borough of Beach Haven, Ocean County, State of New Jersey, in accordance with the aforesaid Recitals, which are incorporated herein by reference, that:

SECTION I

Chapter 45 of the Code of the Borough of Beach Haven shall be amended by the addition of a section 45-1A, which shall read:

§ 45-1A. Plenary Retail Consumption License to a Nonprofit Theatrical Corporation.

- A. **PURPOSE.** It is the purpose of this section to implement the provisions of N.J.S.A. 33:1-19.8 *et seq.* and N.J.A.C. 13:2-41 *et seq.* Specifically, under this law, a municipality may issue a plenary retail consumption license to a nonprofit corporation which regularly conducts or holds musical or theatrical performances or concerts for which admission is charged, entitled a “Theater License.”
- B. **DEFINITIONS.** As used in this section, the following terms shall have the meanings indicated:
1. “Licensed Premises” shall include the premises where the musical or theatrical performance or concert is held, as well as any adjacent premises owned and operated by the non-profit licensee.
 2. “Qualified Performances” shall include musical or theatrical performances, concerts, and/or any other purposes allowed in accordance with N.J.S.A. 33:1-19.7 and -19.8 at the Licensed Premise;

- C. The Borough of Beach Haven hereby establishes and intends to issue this special plenary retail consumption Theater License in limited qualified instances.
- D. In order to be qualified to be issued this special license, the applicant must:
 - 1. be a bona fide non-profit corporation;
 - 2. exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;
 - 3. identify the proposed Licensed Premises to the Borough;
 - 4. have exclusive possession and control of the Licensed Premises;
 - 5. regularly conduct Qualified Performances in accordance with N.J.S.A. 33:1-19.7 at the Licensed Premise;
 - 6. charge admission to Qualified Performances; and
 - 7. have a seating capacity of 50 persons or more but less than 1,000 persons or more, that is primarily used to conduct musical or theatrical performances or concerts.
- E. The Licensed Premises must:
 - 1. Meet the requirements of N.J.S.A. 33:1-19.8;
 - 2. have a seating capacity of 50 persons or more but less than 1,000 persons or more.
 - 3. Be primarily used to conduct musical or theatrical performances or concerts; and
 - 4. The applicant and proposed Licensed Premises are qualified for licensure and comply with all applicable provisions of law.
- F. This license shall authorize the sale of alcoholic beverage(s) only:
 - 1. During the two hours immediately preceding performances;
 - 2. During performances, including intermission;
 - 3. For not more than 15 performances in a calendar year, during the two hours immediately following performances; and
 - 4. No sales in original containers for off-premises consumption shall be made under the authority of this special license.
- G. All applicants for a special license issued pursuant to N.J.S.A. 33:1-19.8 shall comply with the application, advertising and hearing provisions of N.J.A.C. 13:2-2.
- H. No license under this Section shall be issued by the Borough, until, and unless, the application has been approved the Director of the Division of Alcoholic Beverage Control. Approval of an application will be conditioned upon a certification by the issuing authority and a finding by the Director of the Division of Alcoholic Beverage Control pursuant to N.J.A.C. 13:2-41.2.
- I. This special license may only be renewed by the qualified non-profit corporation authorized to hold such license and shall be renewed as any other plenary retail consumption license, under appropriate provisions of law.

SECTION II

All Ordinances or parts of Ordinances inconsistent herewith are repealed to the extent of such inconsistency. The Clerk of the Borough is authorized to renumber and/or re-codify any sections affected by such repeal to the extent consistent with this Ordinance.

SECTION III

If any word, phrase, clause, sections, or provision of this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

SECTION IV

This Ordinance shall take effect upon publication thereof after final passage according to law. Any permit issued prior to the effective date of this Ordinance shall not be subject to the restriction on pool construction and installation provided by Section I, hereof.

CERTIFICATION

I, Sherry Mason, RMC, Municipal Clerk of the Borough of Beach Haven, do hereby certify that the foregoing Ordinance was duly adopted by the Borough Council of the Borough of Beach Haven at a public meeting held on the 10th day of June 2024, a quorum being present and voting in the majority.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 10th day of June 2024.



Sherry Mason, RMC, Borough Clerk

<i>Introduction:</i>	<i>May 13, 2024</i>
<i>First Publication:</i>	<i>May 23, 2024</i>
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