

ORDINANCE #2022-3

**ORDINANCE OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, NEW JERSEY, AMENDING CHAPTER 5 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT ENTITLED "GENERAL LICENSING AND BUSINESS REGULATIONS" AT SECTION 5-15 (SIDEWALK CAFES AND RESTAURANTS)**

**WHEREAS**, the Borough of Keyport (the "**Borough**") is a public body corporate and politic of the State of New Jersey; and

**WHEREAS**, the Borough Council has determined to amend Chapter 5 (General Licensing and Business Regulations) at Section 5-15 (Sidewalk Cafes and Restaurants) to streamline the process for issuing Sidewalk Café and Restaurant licenses (additions are underlined, deletions are ~~stricken~~).

**NOW THEREFORE, BE IT ORDAINED** by the Council that Chapter 5 of the Revised General Ordinances of the Borough of Keyport is amended and supplemented as follows:

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** Chapter 5 of the Revised General Ordinances of the Borough of Keyport is hereby amended at sections 5-15 to read as follows:

**§ 5-15 SIDEWALK CAFES AND RESTAURANTS.**

**§ 5-15.1 License required.**

Sidewalk cafes and restaurants may be established for businesses in the Borough of Keyport. No person, however, shall establish, maintain, own or operate a sidewalk cafe or restaurant nor serve food, liquor or other beverages on any public street, sidewalk or alleyway without first having obtained a license from the Municipal Clerk of the Borough of Keyport.

**§ 5-15.2 Applicant: investigation, issuance or denial.**

- a. An application for a sidewalk cafe license shall be available on a form to be issued by the Clerk of the Borough of Keyport. Once a completed application is received by the Clerk with the appropriate fee, it shall be forwarded to the Borough Administrator for review by the Chief of Police, who shall, with the Zoning Officer, Fire Marshal and Construction Official, conduct an investigation into the date contained in the application. Upon completion of the investigation by the Chief of Police, Zoning Officer and Construction Official, a report with recommendations shall be provided to the Borough Clerk for presentation to the Governing Body. The Borough Administrator, in his or her Governing Body, in its his or her unlimited discretion, shall issue or deny the license provided no existing parking is reduced or

~~access to existing parking is eliminated. The Governing Body shall take taking into consideration the location, potential interference with pedestrian or vehicular traffic, appropriateness of design, the business record of the applicant, any proposed structures to be erected on public sidewalks, public safety, health and welfare considerations. No license shall be issued until a resolution of the Governing Body of the Borough of Keyport authorizing the issuance of a license shall have been adopted by a majority vote of the Governing Body of the Borough.~~

- b. For liquor licensed establishments, permission to serve liquor outdoors shall be made as a separate application to the Borough Clerk and should be treated as a permanent expansion of the area to serve liquor and be treated accordingly as a place-to-place transfer of the liquor license through the Alcoholic Beverage Commission (ABC) with sole discretion of approval and denial separate from a standard sidewalk cafe license.

*§ 5-15.3 Design standards.*

The applicant, in designing and furnishing the sidewalk cafe or restaurant, shall be consistent with the local facade ordinance standards and goals if and when established.

*§ 5-15.4 Application fees and licensing fees.*

Any person submitting an application for a sidewalk cafe or restaurant shall submit an application fee in the amount of \$25 ~~\$100.00~~ with said application. ~~Should an application be approved by the Governing Body of the Borough by resolution, as specified in subsection 5-15.2a., the applicant shall pay an annual licensing fee of \$25.~~

*§ 5-15.5 Season.*

Any and all licenses issued pursuant to the terms of this section shall permit sidewalk cafe operations to begin no earlier than March 1 ~~15~~. ~~Any and all sidewalk cafe operations so established shall cease on 14 business day notice as determined by the Business Administrator in consultation with the Zoning Officer depending upon weather related and public safety considerations on or before November 15 of each year.~~

*§ 5-15.6 Annual renewal.*

Any license for a sidewalk cafe issued pursuant to the terms of this section shall require submission of an application to be renewed annually ~~in the discretion of the Governing Body.~~

*§ 5-15.7 Violations and penalties.*

Any person violating the provisions of this section shall, upon conviction, be punished in accordance with the penalty ordinance set forth in the Ordinances of the Borough of Keyport.

*§ 5-15.8 Insurance requirements.*

- a. Any person obtaining a license for a sidewalk cafe or restaurant shall submit, for the protection of the Borough of Keyport and its representatives, as well as the general public, a comprehensive policy of liability insurance protecting the licensee and the Borough of Keyport against any liability whatsoever occasioned by accident on or

about the licensed property or any appurtenances thereto. This policy shall be written by a good and solvent insurance company or companies, with a minimum Best Rating of A, authorized to do business in the State of New Jersey and the limits of liability thereunder shall not be less than the amount of \$1,000,000 in respect to any one person, and in the amount of \$1,000,000 in respect to any one accident or occurrence.

- b. Prior to the time such insurance is first required to be carried by the sidewalk cafe license holder and hereafter, at least 15 days prior to the expiration of any such policy, licensee agrees to deliver to the Borough Clerk a certified true copy of the aforesaid comprehensive liability policy naming the Borough of Keyport as an additional insured and including an endorsement that such insurance policy may not be modified or canceled except upon 30 days' written notice to the Borough; the licensee shall also deliver to the Borough Clerk evidence of payment for the policy. Licensee shall promptly provide, at the request of the Borough, from time to time, certification or other proof acceptable to the Borough, that the insurance policy is in good standing and in full force and effect.

**§ 5-15.9 Other requirements.**

- a. If the applicant is the holder of any alcoholic beverage control license pursuant to the laws of the State of New Jersey, and has been approved as to subsection **5-15.2a.** of this section, alcoholic beverages may be served and/or permitted to be consumed in the outdoor cafe area if otherwise permitted by the Alcoholic Beverage Commission. Any consumption of alcohol within an outdoor cafe authorized by this section, which has been approved as an outdoor cafe, must be consumed by the glass and no alcohol may be consumed directly from the original container. The applicant for a license to be permitted to operate an outdoor cafe must comply and ensure compliance with all other provisions for the Code of the Borough of Keyport pertaining to alcohol and the consumption thereof.
- b. All persons consuming alcohol must be seated at a table.
- c. Each licensee is responsible for keeping the area of the outdoor cafe and the adjacent sidewalks and streets, free and clear of any debris or litter occasioned by the cafe. Areas must be cleaned as needed and by the time that business is closed and at the beginning of each business day, but not later than 9:00 a.m. Failure to clean the adjacent sidewalks and streets shall result in a doubling of the fine under the existing litter ordinance as well as the suspension of the license issued under this section.
- d. All tables, chairs and equipment must be properly secured and protected from wind damage and must be removed upon 48 hour notice by Borough officials if necessary to protect the public health and safety ~~removed from the sidewalk area at the close of business each night.~~

**Section 3.** All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 4.** Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase and the finding or holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.

**Section 5.** Except as amended by this ordinance, all other provision of the Borough's Revised General Ordinances shall remain in full force and effect.

**Section 6.** The Borough Clerk is hereby directed, upon adoption of the ordinance after public hearing thereon, to publish notice of the passage thereof.

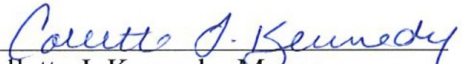
**Section 7.** This ordinance shall be in full force and effect from and after its adoption and any publication according to law.

Introduced: February 1, 2022

Public Hearing: February 15, 2022

Adopted: February 15, 2022

  
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Michele Clark, RMC  
Borough Clerk

  
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Collette J. Kennedy, Mayor