

**CITY OF NORTH WILDWOOD
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1808

AN ORDINANCE AMENDING ORDINANCE 361, AS AMENDED, AND AS PRESENTLY CODIFIED IN CHAPTER 326, PEACE AND GOOD ORDER, §326-2, ALCOHOLIC BEVERAGES, OF THE CODE OF THE CITY OF NORTH WILDWOOD

WHEREAS, on March 9, 2020, New Jersey Governor Philip Murphy issued Executive Order 103 declaring a State of Emergency and a Public Health Emergency in response to the outbreak of the novel Coronavirus (COVID-19) within the State of New Jersey; and

WHEREAS, on March 13, 2020, the President of the United States of America, Donald J. Trump, formally declared the outbreak of the novel Coronavirus to constitute a National Emergency pursuant to the National Emergencies Act (50 U.S.C. § 1601, et seq.); and

WHEREAS, on March 16, 2020, Governor Murphy issued Executive Order 104 enacting several “social distancing” regulations, including but not limited to, limiting public gatherings to no more 50 people, closing educational facilities, closing various recreation and entertainment based businesses, imposed restrictions on scope of service and hours of operation for other non-essential retail, recreational, restaurant/bars and entertainment businesses; and

WHEREAS, on March 21, 2020, Governor Murphy issued Executive Order 107 which expanded the social distancing regulations set forth within Executive Order 104, including but not limited to, directing all New Jersey residents to remain in their home or place of residence with specific limited exceptions, prohibited gatherings of any size, closed all non-essential retail businesses and identified essential businesses permitted to continue to operate subject to specific limitations, and reiterated and strengthened social distancing requirements when in public; and

WHEREAS, on March 21, 2020, Governor Murphy also issued Executive Order 108 which specifically voided and precluded County and Municipal Governments from imposing or enforcing any restrictions/regulations that in any way would or might conflict with any of the provisions of Executive Order 107, with the exception of regulating online marketplaces for arranging or offering lodging, municipal or county parks, and beaches and boardwalks; and

WHEREAS, Executive Order 107 specifically regulated the continued operation of Bars/Restaurants and provides, in part, that “All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses;” and

WHEREAS, in the anticipation that the regulations, prohibitions and social distancing requirements within the Governor’s Executive Orders being relaxed and/or modified in the coming weeks or months, potentially permitting the aforementioned business establishments to operate at reduced capacities, the governing body of the City of North Wildwood, by Resolution 130-20, adopted April 21, 2020, found it to be appropriate to temporarily relax the procedures associated with site plan review and approval in order to permit retail food and beverage service establishments to locate tables out-of-doors, in the City right-of-way and/or in other locations on site, subject to the requirements and restrictions set forth Resolution 130-20, until the State of New Jersey rescinds Executive Order 107 and/or eliminates social distancing requirements; and

WHEREAS, §326-2 of the Code of the City of North Wildwood, in part provides: “It shall be unlawful to consume alcoholic beverages or to carry or possess alcoholic beverages in opened containers upon the streets, highways, sidewalks, public property or other public places or in automobiles or other vehicles parked upon the streets, highways, public property or public places, including parking lots...;” and

WHEREAS, many of the food service establishments that could benefit from the relaxation of site plan review and approval procedures also are establishment licensed for the retail sale of alcoholic beverages; and

WHEREAS, to the extent that this municipal governing body already has found it appropriate to temporarily relax procedures associated with site plan review and approval in order to permit eating establishments to locate tables out-of-doors, in the City right-of-way and/or in other locations on site, this governing body also is of the opinion that during such time of temporary relaxation of site plan review and approval procedures, it may be appropriate that the aforementioned restrictions in §326-2 of the Code of the City of North Wildwood regarding the consumption of alcoholic beverages and the possession of opened containers of alcoholic beverages be relaxed also; and

WHEREAS, in order to relax the restrictions in §326-2 of the Code of the City of North Wildwood regarding the consumption of alcoholic beverages and the possession of opened containers of alcoholic beverages it is necessary that the provisions of §326-2 of the Code of the City of North Wildwood be amended so as to allow for such relaxation and it is the intent and purpose of this ordinance to provide for such an amendment.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of North Wildwood, in the County of Cape May and State of New Jersey as follows:

Section One. The portions of Ordinance 361, adopted June 18, 1954, as amended, that presently are codified in §326-2 of the Code of the City of North Wildwood, are amended to the extent that, henceforth, those portions of Ordinance 361, as amended, and §326-2 of the Code of the City of North Wildwood shall read as follows:

It shall be unlawful to consume alcoholic beverages or to carry or possess alcoholic beverages in opened containers upon the streets, highways, sidewalks, public property or other public places or in automobiles or other vehicles parked upon the streets, highways, public property or public places, including parking lots. The restrictions contained in this section shall not apply to any individual 21 years of age or older attending any special event which has been approved by Council pursuant to the provisions of §376-2 of the Code of the City of North Wildwood wherein the resolution of Council approving the special event permits the consumption, carrying or possession of alcoholic beverages in opened containers during designated hours and in designated locations. Such suspension of the restrictions herein shall be limited to the time and places and subject to the conditions stated in the resolution approving the special event. Nothing in this section shall be deemed to supersede the provisions of N.J.S.A. 39:4-51a, N.J.S.A. 39:4-51b or any other statute of the State of New Jersey. Similarly, at any time during which there is in effect within the City of North Wildwood a declared state of emergency, state of public health emergency or local disaster emergency and City Council has relaxed zoning and site plan regulations concerning outdoor seating for the service of food by establishments to which a valid mercantile license for the service of food on an eat-in or take-out basis is in effect, the restrictions contained in this section may be suspended, in whole or in part, or otherwise modified by Resolution of Council upon the advice of the Director of Public Safety and the North Wildwood Emergency Management Coordinator. Upon adoption of such a Resolution, the City Clerk shall cause copies to be posted upon the Clerk's bulletin board in City Hall, upon the City's internet web site and at two (2) other conspicuous places within the City and shall cause notice of adoption of the Resolution to be published in the City's official newspaper.

Section Two. If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section Three. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Four. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

Patrick T. Rosenello, Mayor

W. Scott Jett, City Clerk

Introduced: May 5, 2020

Advertised: May 8, 2020 (Press)

Hearing/Final: May 19, 2020

Advertised: May 22, 2020 (Press)