

ORDINANCE NO. 21-CODE-858
BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF OAKLAND, LAND USE, CHAPTER 59 ENTITLED "LAND USE AND ZONING" TO ALLOW FOR RESTAURANT OUTDOOR DINING

BE IT ORDAINED by the Borough Council of the Borough of Oakland, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Borough of Oakland, Chapter 59 entitled "Land Use and Zoning".

Section I

Article II Word Usage; Definitions is hereby amended through the inclusion of the following terms in proper alphabetic order.

NIGHTCLUB- An establishment licensed to provide for the on-premises consumption of alcoholic beverages that is open late into the night after typical dining hours, in which music is typically provided, along with space in which dancing occurs. Nightclub menu options are generally limited in scope. Nightclubs are characterized by having more than 25% of the floor area is devoted to an entertainment portion of the business, such as but not limited to a dance floor. Entertainment offered by a nightclub may include magicians, musicians, comedians or others. Nightclubs may charge an entrance fee for admittance.

OUTDOOR DINING FACILITY- A facility without foundation or fixed walls or fixed roof used for the serving and consumption of food and drink. At least one entire side of an outdoor dining facility shall be 100% open to the environment.

RESTAURANT- An establishment where food and drink are prepared, served, and consumed, primarily but not exclusively, within the principal building. A nightclub is not a restaurant.

Section 1I

Article VII Zoning, §59-45 Regulations applicable to all zones shall be amended through the inclusion of a new subsection J. to read as follows:

J. Outdoor dining associated with restaurants.

(1) Only in those zones wherein restaurants are a permitted use, the following provisions shall govern outdoor dining facilities:

- a. Outdoor dining facilities associated with and on the same lot as a restaurant are a permitted accessory use, but only in those zones where restaurants are a permitted principal use.
- b. Restaurants previously granted site plan approval for outdoor dining facilities and/or seating continue to be regulated pursuant to the earlier site plan approval, therefore restaurants that previously secured site plan approval for outdoor dining are exempt for these regulations. Any changes to the previously approved outdoor dining site plan approval are required to comply with these regulations.
- c. Every restaurant in a zone where restaurants are a permitted use may establish outdoor dining facilities on the lot on which the restaurant is located upon receipt of an Outdoor Dining Facility License by the Borough. An Outdoor Dining Facility License is issued to the owner, does not need to be renewed annually and terminates with the sale of the restaurant or real property. Every outdoor dining facility at all times shall comply with and be maintained in accordance with the following conditions and limitations:

- [1] Restaurants complying with each of the following provisions may seek approval of outdoor dining facilities through application to the Zoning Official. When compliance with these requirements is proposed, Planning Board approval of outdoor dining facilities shall not be required.
- [2] Restaurants approved for outdoor dining facilities shall on a one-for-one basis remove an existing interior seat for each proposed outdoor seat so the total number of seats on the restaurant property does not and will not exceed what was existing prior to the introduction of outdoor seating.
- [3] There is no parking requirement associated with outdoor dining facilities or seating. The existing number of parking spaces prior to the introduction of outdoor dining facilities shall be deemed sufficient for both interior and exterior seating quantities.
- [4] Outdoor dining facilities shall be located so compliance with all setback requirements for buildings as established for the applicable zone is achieved.

- [5] Unroofed outdoor dining facilities shall not contribute to the existing restaurant's building coverage.
- [6] Outdoor dining facilities located in or directly adjacent to a drive aisle or parking area shall provide barriers around the perimeter of the outdoor dining facility to adequately protect customers and staff within the outdoor dining facility from vehicle strikes.
- [7] Outdoor dining facilities shall be permitted to install, consistent with all applicable provisions of the international building code, lighting, portable heating and cooling equipment and equipment to provide music. Amplified music shall be extinguished at 10:00PM, inclusive of both Friday and Saturday.
- [8] Prior to establishing an outdoor dining facility, the restaurant operator must file the appropriate application form to the Zoning Official along with a to-scale sketch depicting property lines, restaurant building, proposed outdoor seating facilities and associated site features including but not limited to parking and all equipment and apparatus to be used in connection with its operation. The Zoning Official shall collect an outdoor dining facility application fee prior to issuing a license. Outdoor dining facilities of 50 and fewer seats shall pay a fee of \$325. Outdoor dining facilities with more than 50 seats shall pay a fee of \$500.
- [9] Upon receipt of an executed application form and sketch, the municipal official shall distribute same to the Borough Engineer, Police, Fire, Health and Fire Prevention Departments for review and comment by these departments. Said reviews shall be completed within fifteen (15) business days. Upon receipt of departmental comments, and the appropriate fee the Zoning Official shall issue the outdoor dining facility approval which may be conditioned on compliance with departmental comments and the further compliance with all provisions of this ordinance. An escrow fee, not to exceed \$750, shall be collected by the Zoning Official prior to commencement of the license review.
- [10] A copy of the Outdoor Dining Facility License shall be conspicuous displayed on the premises containing the Outdoor Dining Facility.

(2) Any person or operator who operates an outdoor dining facility without a valid Outdoor Dining Facility license or who fails to comply with the terms and limitations of this ordinance shall be subject to enforcement actions in municipal court pursuant to Article X of Chapter 59.

Section 2

All previously issued temporary outdoor dining permits shall expire and be null and void 90 days after adoption on second reading of this ordinance.

Section 3

All Ordinances of the Borough of Oakland which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4

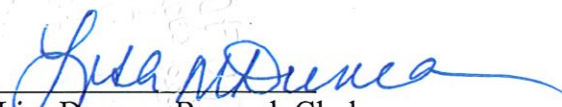
The terms and provisions of this Ordinance are hereby declared to be severable; should any part, portion or provision of this Ordinance be held unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any other part hereof.

Section 5

This Ordinance shall take effect upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF OAKLAND


Lisa Duncan, Borough Clerk

By: 
Linda H. Schwager, Mayor

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on November 23, 2021
Borough Clerk 