

## ORDINANCE 2005-15

### AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE CITY OF LAMBERTVILLE, 1990, CHAPTER V: GENERAL LICENSING

**BE IT ORDAINED** by the Mayor and Council of the City of Lambertville, County of Hunterdon, State of New Jersey, that the Revised General Ordinances of the City of Lambertville, 1990, Chapter V: General Licensing be amended as follows:

**SECTION 1:** A new section added to Chapter V as follows: Section 5-7 entitled “Outdoor Seating”

**SECTION 2:** A new section added to Chapter V as follows: Section 5-7.1 entitled “Definitions” as follows:

#### **5-7.1 Definitions**

As used in this section:

*Person* shall mean any individual, partnership, corporation, association or other entity.

*Primary building* shall mean the building whose principal facade is adjacent to where the outdoor seating is or is proposed to be located.

*Principal facade* shall mean that portion of the facade of a building which fronts on a public street.

*Retail food establishment* shall mean an establishment actually located within the primary building for which a current retail establishment inspection certificate has been issued by the Board of Health and shall include, by way of example, a restaurant, hotel, coffee shop, tea room, dining room, cafeteria, luncheonette, sandwich shop, delicatessen, and the like.

*Sidewalk* shall mean the paved surface provided for the exclusive use of pedestrians and situated between and extending from any building to the curb of any street (excluding therefrom any unpaved area).

*Outdoor seating* shall mean a retail food establishment (as defined herein):

- a. Serving food to be consumed by the public at tables located adjacent to the primary building.

- b. Containing readily removable tables, chairs, and/or planters; and
- c. Unenclosed by fixed walls or ceilings, except for retractable awnings, umbrellas or other non-permanent enclosures which in no way present a safety hazard to or impede pedestrian traffic.

**SECTION 3:** A new section added to Chapter V as follows: Section 5-7.2 entitled “License Required” as follows:

**5-7.2 License Required.**

- 1. No person shall operate outdoor seating within the City without having first obtained an outdoor seating license in accordance with the requirements of this section. The license shall be issued by the Mayor and City Council by resolution and may contain conditions. The license shall not be transferable and shall be for the period of April 15th of the issuing year through April 14th of the preceeding year. The license shall, however, be subject to future amendments to this section or other applicable regulations.
- 2. A person who has received approval by resolution of the Planning Board or Board of Adjustment for outdoor seating is exempt from the above licensing requirement. This exemption applies only for the specified number of seats permitted in the approving resolution.

**SECTION 4:** A new section added to Chapter V as follows: Section 5-7.3 entitled “Fee” as follows:

**5-7.3 Fee.**

The annual fee for an outdoor seating license shall be fifty dollars (\$50.00) per seat payable upon submission of an application for a license. Exempt from the annual license are retail food establishments that have received approval by resolution of the Planning Board or Board of Adjustment for outdoor seating. This exemption applies only for the specified number of seats permitted in the approving resolution.

**SECTION 5:** A new section added to Chapter V as follows: Section 5-7.4 entitled “Application” as follows:

**5-7.4 Application.**

- a. Each applicant for an Outdoor Seating license shall submit and file an application with the City Clerk, together with three (3) copies of an Outdoor Seating Plan (as defined below), and the appropriate fee. The application shall set forth:

1. The name and address of the applicant;
  2. The name and address of the owner of the primary building (if other than the applicant); and
  3. The name and address of the person who has prepared the Outdoor Seating Plan; and shall be accompanied by the written authorization and approval of the owner of the primary building (if other than the applicant).
- b. The "Outdoor Seating Plan" shall include the following information (and such other additional information, if any, as may be deemed necessary and subsequently requested by the City):
1. Identification of the primary building and all properties immediately adjacent to such building, including names and addresses of the adjacent property owners; and
  2. The plan shall be drawn to scale but does not require professional seals. The scaled drawing of the proposed design and location of the outdoor seating shall include setbacks, all temporary structures, equipment and apparatus to be used in connection with its operation, including tables, chairs, planters, awnings, lighting and electrical outlets (if any), provisions for the storage of such structures, equipment and apparatus, and the location of any fire hydrant, plug or standpipe, utility pole, parking meter, or other permanent fixture between the primary building and the curb, including a clear indication of the presence of the required pedestrian passageway. If the outdoor seating is located on private property adjacent to the sidewalk, the plan shall demonstrate that pedestrian traffic will in no way be impeded.
  3. A statement of the seating capacity of the proposed outdoor seating and of the existing retail food establishment actually operated by the applicant in the primary building. The Zoning Officer in conjunction with the City Clerk shall approve or disapprove modification of the Outdoor Seating Plan within fifteen (15) business days following its submission.

**SECTION 6:** A new section added to Chapter V as follows: Section 5-7.5 entitled "Term of License, Renewals" as follows:

**5-7.5 Term of License; Renewals.**

All Outdoor Seating licenses shall be issued for the commencing April 15<sup>th</sup> and ending April 14<sup>th</sup> of the preceding year. Licenses may be renewed annually by the filing of an application in accordance with the provisions of subsection 5-7.2.

**SECTION 7:** A new section added to Chapter V as follows: Section 5-7.6 entitled “Rules, Regulations and Specifications” as follows:

**5-7.6 Rules, Regulations and Specifications.**

Outdoor Seating is authorized and operating pursuant to this section shall comply with all of the following rules and regulations, and such others as may be adopted by ordinance of the City Council.

- a. The Outdoor Seating shall be operated and maintained in accordance with the Outdoor Seating Plan as finally approved, and by the same person who operates and maintains the abutting retail food establishment.
- b. The placement of furniture, apparatus, decoration or appurtenance used in connection with the operation of the Outdoor Seating in relation to any fire hydrant, plug or standpipe permanent fixture shall be approved by specific written authorization of the Fire Official based upon his review of the Outdoor Seating Plan.
- c. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the Outdoor Seating shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building or structure.
- d. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the Outdoor Seating shall be located in or project or protrude into the required pedestrian passageway.
- e. Any table service provided at the Outdoor Seating shall be provided by persons engaged or employed for that purpose and shall be furnished to seated patrons only. Table service is not required, and retail food establishments that do not provide table service may operate Outdoor Seating in which patrons carry their food from inside the premises to tables located in the Outdoor Seating.

- f. The outdoor area utilized by the Outdoor Seating shall be kept clean and free of litter and shall be washed as required. Trash receptacles shall be provided as required and approved by the City. If no table service is provided, the trash receptacles shall include those needed for recycling.
- g. Noise shall be kept at such a level as to comply in all respects with the provisions of applicable ordinances of the City.
- h. Outdoor Seating shall be permitted to operate only within a license facility and only from 7:00 a.m. until 10:00 p.m. Monday through Thursday and 7:00 a.m. until 11:00 p.m. Friday through Sunday during the months of license period, inclusive.
- i. Furniture, apparatus, decorations and appurtenances may be secured in accordance with a Outside Seating Plan which describes the method for securing same that is specifically approved by the Chief of Police and the Fire Official, with particular attention being given to issues of ingress and egress and the possibility of the stored material being used to create a public hazard.
- j. No food may be prepared in the Outside Seating area or outside the primary building without the approval of the Fire Official.
- k. The licensee shall comply with all other ordinances of the City.
- l. Outdoor seating is prohibited on the public sidewalk.

**SECTION 8:** A new section added to Chapter V as follows: Section 5-7.7 entitled “Alcoholic Beverage” as follows:

**5-7.7 Alcoholic Beverage.**

The outside area upon which Outside Seating has been authorized to operate may permit the consumption of alcoholic beverages as follows:

- a. A retail food establishment that does not possess a liquor license may permit its patrons to consume only beer or wine, which is brought to the premises, by its patrons.
- b. A retail food establishment that possesses a plenary retail consumption license must amend their liquor license to include the outdoor seating area in order to permit the consumption of alcoholic beverages by its patrons.

**SECTION 9:** A new section added to Chapter V as follows: Section 5-7.8 entitled “Notice of Violation; Failure to Comply” as follows:

**5-7.8 Notice of Violation; Failure to Comply.**

Upon a determination by the Zoning Officer in conjunction with the City Clerk that a licensee has violated one or more of such provisions, the Zoning Officer shall give written notice to the licensee to correct such violation within twenty-four (24) hours of the receipt of such notice by the licensee. In the event that the licensee fails or refuses to correct such violation within such period, the licensee's Outside Seating License shall thereupon be revoked.

**SECTION 10:** A new section added to Chapter V as follows: Section 5-7.9 entitled “Appeals” as follows:

**5-7.9 Appeals.**

Any person aggrieved by any action of the Zoning Officer, in the denial or revocation of an Outside Seating License, shall have the right to appeal to the Mayor and City Council. The appeal shall be taken by filing with the City Clerk, within thirty (30) days after the notice of the action complained of has been served personally upon the licensee, or mailed, postage prepaid, to the licensee at the address given by the licensee in making application under subsection 5-7.4 herein, a written statement setting forth fully the grounds for appeal. The City Clerk shall set a time and place of hearing for the appeal, at which time the Mayor and City Council shall conduct a hearing and affirm, modify or reverse the action appealed from.

**SECTION 11:** A new section added to Chapter V as follows: Section 5-7.10 entitled “Penalties” as follows:

**5-7.10 Penalties.**

Any person convicted of a violation of any of the provisions of this section shall be subject to a fine of at least two hundred (\$200.00) dollars and not exceeding five hundred (\$500.00) dollars for each and every offense for each day in which the

violation has not been abated. In addition to the penalty the person shall be responsible for cost of conviction.

Introduced: June 20, 2005

Adopted: July 5, 2005