

FIRST READING: June 16, 2020
 Second & Final Reading:

ORDINANCE OF THE CITY OF LINDEN, COUNTY OF UNION, STATE OF NEW JERSEY, AMENDING CHAPTER 4 OF THE CITY CODE ENTITLED "GENERAL LICENCING" TO PERMIT OUTDOOR DINING AREAS

NOW, THEREFORE BE IT ORDAINED, by the Council of the City of Linden, County of Union, State of New Jersey, as follows:

SECTION 1. Chapter 4 of the Code of the City of Linden, entitled "General Licensing", is hereby amended to permit outdoor dining areas. The amendments shall read as follows:

§ 4-42-1. Definitions.

Outdoor Dining Area. A designated area on the premises of a retail food establishment or restaurant, but outside the principal building, and where patrons may sit at tables while consuming food and beverages.

211-3.1. Outdoor Dining Area. Permit Required.

- A. A temporary Outdoor Dining areas as defined in this Section may be established for any existing retail food establishment or restaurant facilities with current interior dining area.
- B. No person shall operate an Outdoor Dining Area without a permit from the City of Linden. A permit is valid for a 12-month period from date of issuance but outdoor dining is limited to the period of May 1 through November 30 of each calendar year.
- C. Applicants shall apply for permit approval in accordance with the provisions of this Chapter. All such applications must be approved by the Zoning Officer and shall be referred to the Chief of Police, Fire Official and Health Officer, who shall provide the Zoning Officer with written reports of their opinions and recommendations regarding the application.
- D. Applicant shall meet the general ordinance requirements and all other laws, rules, regulations and codes applicable to the proposed activity.
- E. Any restaurant or retail food establishment which has previously received approval by resolution of the Planning Board or Zoning Board of Adjustment for outside seating is exempt from the above permitting requirement. This exemption applies only for the specified number of seats permitted in the approving resolution.
- F. Outdoor Dining Areas located on public sidewalk or public right-of-way are subject to Section 4-38 Outdoor Sidewalk Cafes. Areas not regulated by Section 4-38, require approval from City Council. At a minimum, all applicants shall indemnify the City and provide insurance for said use.
- G. An application and Permit shall be required for all Outdoor Dining Areas.
 1. All permits required by this section shall be applied for and obtained from the Office of the Zoning Officer.
 2. The applicant proposing to establish an Outdoor Dining Area must provide current licensed occupancy.
 3. The applicant shall submit to the Zoning Officer a layout of the proposed seating areas, which shall include a depiction of all aisles, seating areas and means of ingress and egress. The applicant shall also detail proposed barriers such as large planters or shrubs, decorative fencing or vehicle barriers designed to enclose the eating area.
 4. The applicant shall detail plans to control litter and waste.
- H. All Outdoor Dining Areas shall comply with the following Rules, Regulations, and Specifications.
 1. The Zoning Officer shall review each application to ensure that the proposed operation of the Outdoor Dining Area will not interfere with pedestrian or vehicular traffic. Six (6) feet of unobstructed sidewalk should be provided with the exact width being determined by the Zoning Officer as he deems it to be appropriate to promote pedestrian or vehicular safety. However, in no event shall the unobstructed sidewalk be less than four (4) feet.
 2. The Outdoor Dining Area 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.
 3. Any proposed outdoor seating shall serve as a substitute for permitted indoor seating. The total existed permitted occupancy of the restaurant or retail food establishment shall not be increased by the establishment of an outdoor dining area.
 4. No furniture, apparatus, decoration, or appurtenance used in connection with the operation with the Outdoor Dining Area shall be located in such a way as to impede the safe and speedy egress to or from any building or structure.
 5. The outdoor area used by the Outdoor Dining Area shall be kept clean and free of litter and shall be washed as required.

6. Noise shall be kept at such a level as to comply in all aspects with the provisions of applicable ordinances of the City.
7. Outdoor Dining Areas shall be permitted to operate from 7:00am until 10:00pm Monday through Thursday and 7:00am until 11:00pm Friday through Sunday during the months of May through November.
8. Furniture, apparatus, decorations, and appurtenances must be maintained in an orderly fashion within the outdoor dining area during hours of operation and at closing a specific breakdown process must be implemented to assure same.
9. No canopies or tents will be permitted in the outdoor dining area. Tables are permitted to have umbrellas.
10. No outdoor bar or serving stations that require plumbing or electric are permitted.
11. Applicants must comply with all ABC regulations and permit requirements pertaining to outdoor alcohol beverage sales and consumption. Any served or BYOB beverages must remain within approved designated areas.
12. Outdoor Dining Areas shall be solely an extension of the permitted business use within the adjacent building or storefront.
13. All applicants shall demonstrate authorization from the property owner to proceed with any such outdoor dining use.

211-5 Fees.

E. Outdoor dining area. \$50.00.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall become effective after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the City Council on first reading at a meeting of the City Council of the City of Linden held on the 16th day of June, 2020, and will be considered for second reading and final passage at a regular meeting of the City Council to be held on the _____ day of _____, 2020 at 7:00 p.m., at the Municipal Building, located at 301 North Wood Avenue, Linden, New Jersey, at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.

Passed:

President of Council

Approved:

Mayor

ATTEST:

City Clerk