

ORDINANCE NO. 01-2023

AN ORDINANCE OF THE TOWNSHIP OF EAST HANOVER, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE CHAPTER 95 “LAND USE AND ZONING,” ARTICLE VII “ZONING,” SECTION 95-47 “MODIFICATIONS AND EXCEPTIONS” TO CLARIFY THE PERMITTED CAPACITY OF OUTDOOR SEATING AREAS

WHEREAS, prior to 2021 the Land Use Planning Board had received several applications to exceed the permitted number of outdoor seats associated with restaurants; and

WHEREAS, Township of East Hanover Township Planner reviewed the Township of East Hanover Code and determined that the Code should be revised to increase the number of permitted outdoor seats associated with restaurants in response to the growing demand for outdoor dining; and

WHEREAS, the Mayor and Council for the Township of East Hanover reviewed the recommendation of the Township Planner and agreed the suggested changes should be implemented; and

WHEREAS, Ordinance 13-2021 was adopted on December 6, 2021 to effectuate the recommended changes, and

WHEREAS, Ordinance 13-2021 was subsequently codified into Chapter 95; however the text was not amended to effectuate the recommended changes due to vagueness within Ordinance 13-2021; and

WHEREAS, the Mayor and Council for the Township of East Hanover seek to rectify this issue regarding outdoor seating areas by amending and supplementing the Township Code Chapter 95 “Land Use and Zoning.”

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Township Council that:

SECTION 1. The Township Code, Chapter 95 “Land Use and Zoning,” Article VII “Zoning,” Section §95-47 “Modifications and exceptions,” shall be amended to add the following underlined text and delete the following text in ~~strikeout~~:

A. General modifications. The following modifications are permitted under the terms and specifications herein:

- (6) At any existing nonresidential building in a B-1, B-2 or B-2B Zone, any duly licensed restaurant, eatery restaurant, fast-food restaurant or other occupant of said building which is a purveyor on the premises of food or refreshments as permitted in the applicable zoning district, with the permission of the site owner, may apply to the administrative officer (Director of Land Use and Development) for a seasonal permit to provide temporary outdoor seating in the front or side yard of the premises as an integral part of that business, for consumption of food or refreshments by patrons. A permit shall be issued provided that the following requirements are met:

(a) The seating in such an area shall be limited to 20% of the establishment's existing interior seating. No food or refreshment preparation or storage shall be permitted within the outdoor seating area, and all persons shall be seated when consuming food or refreshments within the area.

~~(b) The seating in such an area shall be limited to 10% of the establishment's existing interior seating, or eight seats, whichever is greater. No food or refreshment preparation or storage shall be permitted within the outdoor seating area, and all persons shall be seated when consuming food or refreshments within the area.~~

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.

Attest:

TOWNSHIP OF EAST HANOVER

Nicolette J. Riggi, RMC
Township Clerk

Joseph Pannullo, Mayor

Introduced: March 6, 2023
Adopted: April 3, 2023

I, Nicolette J, Riggi, Township Clerk of the Township of East Hanover, County of Morris, hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Council at a duly convened meeting held on April 3, 2023.

Nicolette J. Riggi, RMC, Township Clerk