

**BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

ORDINANCE No. 2026-05

ORDINANCE REGULATING OUTDOOR DINING

WHEREAS, the Borough of Spring Lake Heights (“Borough”) maintains licensing and zoning requirements for outdoor dining within the Borough; and

WHEREAS, on or about November 25, 2024, the Governor signed P.L. 2024, c.95 into law, codified at N.J.S.A. 40:55D-164 et seq (the “Law”), which permanently sanctions outdoor dining for restaurants and certain alcoholic beverage retailers and manufacturers; and

WHEREAS, the Borough desires to update its Ordinances regarding outdoor dining and expansion permits to comport with the Law and to allow for it to exercise its oversight and discretion under the Law to the maximum extent possible to protect the health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey, as follows:

SECTION 1. Section 4-7, titled “Permits for Outdoor Dining Areas, Outdoor Eating Areas and Sidewalk Café Areas” is hereby repealed and replaced as follows:

§ 4-7.1. Purposes.

A. P.L. 2024, c.95, codified at N.J.S.A. 40:55D-164 et seq. (the “Law”), permanently sanctions outdoor dining for restaurants and certain alcoholic beverage retailers and manufacturers.

B. The Borough seeks to update its Ordinances regarding outdoor dining and expansion permits to comport with the Law, and allow for it to exercise its oversight and discretion to the maximum extent afforded under the Law to protect the health, safety, and welfare.

§ 4-7.2. Definitions.

“Alcoholic beverage manufacturer license” or “license” means a plenary winery license, farm winery license, limited brewery license, restricted brewery license, cidery and Meadery license, and craft distillery license issued pursuant to R.S. 33:1-10.

“Alcoholic beverage retail consumption license” or “license” means a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumption license, or club license issued pursuant to R.S. 33:1-12, or a concessionaire permit issued pursuant to Title 33 of the New Jersey Revised Statutes that authorizes the sale of all alcoholic beverages for consumption on the licensed premises.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on the business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L. 2024, c.95 which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.

“Premises expansion permit” means a permit issued to a manufacturer license holder or retail consumption license holder that entitles the license holder to use outdoor spaces as an extension of their business premises that they own or lease and that are located either on their business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L. 2024, c.95 for the purpose of conducting sales of food and beverages as allowed by law.

“Public sidewalk” means a sidewalk on the locally, county or state-owned right-of-way which is adjacent to the business premises or a portion thereof.

§ 4.7.3. Premises Expansion Permit.

- A. Pursuant to N.J.S.A. 40:55D-165, the holder of an alcoholic beverage manufacturer license or retail consumption license may apply to the Director of the Division of Alcoholic Beverage Control for a premises expansion permit.
- B. Pursuant to N.J.S.A. 40:55D-165(c), the director shall transmit the application for a premises expansion permit to the municipal clerk and police chief of the municipal governing body and the director “shall not approve or deny an application until it receives an endorsement or approval from the appropriate governing body officials.”
- C. Upon the transmission of a premises expansion permit application by the Director of the Division of Alcoholic Beverage Control to the Clerk and the Chief of Police, the municipal clerk and police chief shall forthwith forward the application to the Borough Administrator.
- D. The Borough Administrator shall review the application with a reviewing panel consisting of the following officials: the Borough Administrator, Borough Attorney, Borough Engineer, Zoning Officer, Code Enforcement Officer, Chief of Police, and any other officers that the Borough Administrator deems appropriate.
- E. The reviewing panel shall evaluate the application, including requesting and holding a meeting with the applicant if deemed warranted. The reviewing panel shall develop all relevant information and forward it to the governing body along with any recommended handling.
- F. The governing body shall review the application and reviewing panel information. It shall recommend endorsement and/or approval of the application if it is believed that the application satisfies the statutory criteria and that the requested premises expansion permit would not interfere with the health, safety, and welfare of the Borough of Spring Lake Heights. If the governing body finds the premises expansion permit application to be deficient, it shall set forth the deficiencies in the resolution.

- G. The Borough Clerk and Chief of Police shall provide a response to the Director consistent with the governing body's resolution to the Director of the Division of Alcoholic Beverage Control.
- H. License holders must apply for and receive approval for premises expansion permits annually.

§ 4.7.4. Outdoor Space Permit

- A. Pursuant to N.J.S.A. 40:55D-166, the owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license seeking to utilize, for purposes other than selling alcoholic beverages, outdoor spaces as an extension of their business by filing an application with the Borough Zoning Officer.
- B. The application to the Borough Zoning Officer pursuant to this section shall include:
- (1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces;
 - (2) a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and grounds. If a business premises' parking lot is used for the service and sale of either food or beverages, or both, the owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license shall not encumber more than seventy-five (75%) percent of the lot's total parking spaces for service and sale, unless the parking lot contains less than eight parking spaces and shall maintain at least one handicapped parking space in the parking lot.
 - (3) Proof of written consent of the owner of the premises, if other than the applicant, which shall include evidence of a properly issued permit p;
 - (4) An insurance certificate naming the Borough as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the Outdoor space; and
 - (5) An indemnification agreement with the Borough with respect to losses arising solely from the operation of the Outdoor space.
- C. The Borough Zoning Officer shall issue an approval to the applicant within fifteen business (15) days of the application being submitted and deemed complete, provided that the applicant meets and abides by all qualifications and requirements of P.L. 2024, c. 95, except that the Borough Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation or upon any applicable law permitting the denial of a zoning permit.
- D. An application under this Section shall not be considered an application for a variance under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

- E. The Borough may deny, revoke, or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of P.L. 2024, c.95, or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Director of Alcoholic Beverage Control and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation related to the consumption of alcoholic beverages under its jurisdiction.
- F. An appeal to any approval, denial, revocation, or suspension may be filed through the Clerk to the Borough Council. The Borough Council shall conduct a hearing and render a decision within thirty (30) days of the filing of the appeal. At the Borough Council's discretion, it may designate by Resolution a Borough official or attorney licensed in the State of New Jersey to serve as a hearing officer in place of the Borough Council for the purpose of conducting said hearing and rendering said decision.
- G. A permit issued pursuant to this section to a restaurant without an alcoholic beverage retail license shall be subject to annual renewal.
- H. An application pursuant to this section that has been approved for a holder of an alcoholic beverage manufacture license or retail consumption license shall have the endorsement submitted to the Director.

§ 4.7.5 Outdoor Dining Standards.

For purposes of this Section, "Licensed Outdoor Space" shall be defined as Outdoor Space that is sanctioned for outdoor dining pursuant to a Premises Expansion Permit or Outdoor Space Permit.

In addition to any other requirements under this Section, the following additional requirements shall apply to an area maintained as a Licensed Outdoor Space. It shall be a violation of this Ordinance for a person to own, maintain, or operate a Licensed Outdoor Space contrary to the terms set forth herein:

- A. Where curbside abuts on-street parking, curbside dining is limited to two-top tables placed parallel to the street. A minimum two-foot setback should be maintained from the curb edge.
- B. Additional sidewalk clearance may be required where pedestrian traffic or other circumstances warrant.
- C. An unobstructed pedestrian corridor of a minimum of four feet in width straight out must be maintained between any restaurant entrance and the pedestrian corridor space.
- D. Clear unobstructed height of seven feet must be maintained between the sidewalk surface and overhead objects including umbrellas.

- E. A minimum clearance of five feet must be maintained between the outdoor dining space and edge of parking lots, driveways, alleys, and handicapped ramps.
- F. The Licensed Outdoor Space must not block access to public amenities like street furniture, trash receptacles, and way finding, or directional signs.
- G. Dining areas at corners must not extend within sight triangles at street intersections.
- H. An unobstructed pedestrian corridor of a minimum of four feet in width must be maintained parallel to the street at all times.
- I. Furniture must be made of durable material.
- J. Planters or pots may be used to define the outdoor dining space but are not required.
- K. Perimeter fences are discouraged. Fences must not be solid or opaque, made of plastic or unfinished or pressure treated wood, or affixed to the ground.
- L. Tabletop signage is limited to menus and must not exceed 11" X 17".
- M. There can be no more than two umbrellas per table.
- N. The umbrellas must be fixed so as to leave a clear height of seven feet from the sidewalk surface.
- O. Umbrellas are not allowed on tables located within 10 feet of block corners.
- P. Lighting must not cause glare to pedestrians or vehicular traffic.
- Q. Lighting must not be affixed to trees, bushes and any natural growth.
- R. Tables, chairs, planters, and pots may remain in the designated outdoor dining area throughout the permit period. All umbrellas, signage, and other accessories, however, must be removed from the dining area at the close of business each day.
- S. The Licensed Outdoor Space operation must comply with all state and local sanitary and health regulations.
- T. A host stand and tabletop candles are allowed within the approved dining area. However, these accessories have to be removed from the dining area at the close of business.
- U. No tents or cash registers are permitted within the Licensed Outdoor Space except during a government-declared state of emergency.
- V. Licensed Outdoor Spaces cannot run electrical cords from the restaurant building or the Borough's power receptacles.

- W. The applicant is responsible for keeping the Licensed Outdoor Space and the permittee's property clean of garbage, food debris, paper, cups, or cans associated with the operation of the outdoor dining space on a daily basis. All waste and trash must be properly disposed of by the applicant.
- X. Sidewalks within and adjacent to the Licensed Outdoor Space must be washed down and cleaned on a daily basis. Any stains from spills must be removed. Soiled pavement that is not able to be cleaned must be replaced by the permit holder, under the supervision of the Borough Engineer and detergents used for cleaning must not drain into tree pits.
- Y. Signage. A-frame, sandwich signs and menu signs are prohibited outside. All signs attached to poles, fences, or trees are prohibited. All signage must be approved by the Zoning Officer.
- Z. Licensed Outdoor Spaces must provide an architectural barrier such as floral arrangements, landscaping and/or decorative fencing designed limit the ability of litter to blow off the premises but not attached to a Public sidewalk for the eating area and any other area identified by the Zoning Officer determines that litter is likely to result from.
- AA. Licensed Outdoor Spaces shall not interfere with pedestrian or vehicular traffic. Four feet of unobstructed non-meandering sidewalk shall be provided. The area shall be clearly demarcated through the placement of a temporary barricade which is reviewed and approved by the Zoning Officer.
- BB. Licensed Outdoor Spaces shall maintain a litter control plan setting forth a description of the number and location of trash receptacles for the areas and the frequency with which the tables, surrounding area and adjacent public and private properties will be policed for litter. Outdoor spaces shall not be maintained contrary to the litter control plan.
- CC. No amplified sound is permitted in Licensed Outdoor Spaces. Music of any kind is not permitted outside of the principal building.
- DD. The hours of operation of any outdoor dining activities within a Licensed Outdoor Space shall be between 8:00 a.m. and 11:00 p.m. Outdoor dining shall be permitted between May 15 and October 15. These hours and dates may be modified by resolution of the governing body.

§ 4.7.7. Municipal Ordinances.

- A. N.J.S.A. 40:55D-168(a) provides that notwithstanding P.L. 2024, c. 95, “all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages shall apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of this section.”
- B. The provisions of this Section shall not be construed as suspending or modifying any other provisions of the Borough’s Ordinances, which shall remain in full force and effect and are binding upon the holders of premises expansion permits and outdoor space permits.

C. The seating contained in an outdoor space that is licensed under a premises expansion permit or outdoor space permit shall not be counted in determining any parking space requirement for a retail food establishment or restaurant use.

§ 4.7.8. Fees Set by Resolution.

A. The annual fee for a permit issued pursuant to this Section may be set by resolution of the Mayor and Borough Council.

B. No fees shall be prorated, nor any part thereof refunded for any reason.

§ 4.7.9. Violations and Penalties.

Each person violating any of the provisions of this Section shall, upon conviction thereof, be liable for a fine not less than \$500 for the first offense. For second or subsequent offenses the penalty shall be the maximum penalty as provided by law and as authorized by Borough Ordinance.

SECTION 2. Severability.

The provisions of this Ordinance shall be severable. If any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION 3. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

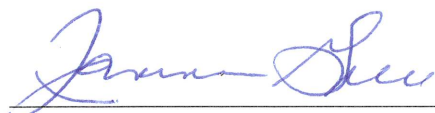
SECTION 4. Effective Date.

This ordinance shall take effect upon final adoption and publication in accordance with law.



Christopher M. Campion, Jr., Mayor

4-06-2026
Date



Janine Gillis, Borough Clerk

4-06-2026
Date