

RESOLUTION NO. 2020 – 212A

**RESOLUTION OF THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF BARNEGAT, COUNTY OF
OCEAN, STATE OF NEW JERSEY, ALLOWING
OUTDOOR DINING AREAS FOR EATING
ESTABLISHMENTS.**

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (the “Township”) acknowledges that the State of New Jersey and the United States of America are facing unprecedented times as a result of the novel coronavirus (“COVID-19”); and

WHEREAS, on March 9, 2020, the Governor of the State of New Jersey, Phil Murphy, issued Executive Order 103 declaring a State of Emergency and a Public Health Emergency in response to the outbreak of COVID-19 within the State of New Jersey; and

WHEREAS, on March 13, 2020 the President of the United States formally declared the outbreak of COVID-19 to constitute a National Emergency pursuant to the National Emergencies Act; and

WHEREAS, on March 16, 2020 Governor Murphy issued Executive Order 104 enacting social distancing regulations as well as imposing restrictions on the scope of services and hours of operation of non-essential businesses; and

WHEREAS, on March 21, 2020 Governor Murphy issued Executive Order 107 which expanded the social distancing regulations set forth in Executive Order 104, including but not limited to, directing all New Jersey residents to remain in their home with specific limited exceptions, prohibited gatherings of any size, and closed all non-essential retail businesses, which included all restaurant and eating establishments for any in-service consumption; and

DASTI & ASSOCIATES
ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

WHEREAS, Executive Order 107 specifically regulates the continued operation of bars/restaurants and provides in part that "all restaurants, cafeterias, dining establishments, and food courts with or without a liquor license, and all other holders of liquor licenses with retail consumption privileges are permitted to operate under normal business hours, but are limited to offering only food delivery and/or takeout services in accordance with their existing liquor licenses"; and

WHEREAS, the COVID-19 pandemic and essential closing of the New Jersey economy has wreaked havoc on business owners within the State of New Jersey, as well as the Township of Barnegat; and

WHEREAS, business owners are seeking guidance as to how they can safely resume dining-in services and an eventual broadening of the business activity allowed in the State of New Jersey; and

WHEREAS, the Township Committee finds it necessary and appropriate to temporarily allow outdoor dining areas at eating establishments located within the Township subject to specific limitations during the COVID-19 pandemic and the Public Health Emergency.

NOW, THEREFORE, BE IT RESOLVED on this 4 day of June, 2020 by the Mayor and the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey as follows:

1. Outdoor dining areas may be temporarily permitted to any restaurant or eating establishment in the Township of Barnegat. The temporary period shall remain in place until the Governor ends the restrictions pertaining to restaurants and eating establishments to serve patrons at their place of business. Once the restrictions are lifted

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

by the Governor all business that received temporary outdoor dining approval shall discontinue said operations immediately.

2. All Applicants must obtain a Temporary Outdoor Dining Area Application which must be obtained prior to the creation of any outdoor dining areas. A drawing of the proposed outdoor dining area must accompany the permit application. All seating arrangements shall comply with all the applicable Executive Orders issued by the Governor of the State of New Jersey, as well as any other requirements, conditions, and/or limitations in any applicable Executive Orders.

3. The Temporary Outdoor Dining Area Application must be approved by the Township Zoning Officer and Township Chief of Police.

4. The Township shall waive any filing fee for a Temporary Outdoor Dining Area Application.

5. The Township will expedite and review all Temporary Outdoor Dining Area Applications seeking to create outdoor restaurant seating.

6. The following standards are hereby created in connection with the outdoor dining area

- a. An awning or umbrellas may be utilized within an outdoor dining area, but tents shall not be permitted;
- b. The proposed hours of operation of the outdoor dining area will be included in the Temporary Outdoor Dining Area Application;
- c. Restaurants with existing outdoor dining areas may seek to expand the existing area;
- d. The consumption of alcoholic beverages will continue to be regulated by the New Jersey Alcoholic Beverage Control Commission therefore all

DASTI & ASSOCIATES
ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

applicants are responsible for verifying that their liquor license permits the serving of alcohol outdoors;

- e. An approved outdoor dining area must be discontinued or reduced in size if proper social distancing is not maintained or the restaurant establishment does not comply with applicable sanitary and cleaning standards, use of masks and partitions or other Executive Order requirements issued by the Governor;
- f. Outdoor dining areas shall be permitted to operate from 7 am until 10 pm Monday through Thursday and 7 am until 11 pm Friday through Sunday;
- g. Zoning Permit Application completed with property owner name with contact information and current licensed maximum occupancy of the restaurant or retail food establishment.
- h. Existing Site Plan or survey indicating the location of the business and location of the outdoor seating area.
- i. Schematic drawn with a straight edge of the outdoor dining area layout to include but not limited to; barrier fencing, planters, tables, chairs, isles, ingress/egress, wait situations, trash receptacles etc. Schematic must also include widths of all isles, sidewalks, and distance between tables. (All fencing and other approved barriers must be removable)

7. This resolution shall take effect on the date that outdoor dining areas are permitted under Executive Order.

8. An Applicant may appeal the denial of any requested permit to the Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-70 in the Township Ordinance.

9. The Township Zoning Department shall create any and all necessary zoning permit applications for outdoor seating and shall have same available to the applicant.

DASTI & ASSOCIATES
ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

10. A certified copy of this Resolution shall be forwarded by the Township Clerk to the following:

- (a) John J. Novak, Mayor;
- (b) Martin Lisella, Township Administrator;
- (c) Keith Germain, Chief of Police;
- (d) Kurt Otto, P.E., Township Engineer;
- (e) John Durasky, Zoning Officer;
- (f) Christopher J. Dasti, Esq., Township Attorney

CERTIFICATION

I certify that the forgoing Resolution was duly adopted by the Township of Barnegat at a meeting held on June 4, 2020, a quorum being present and voting in the majority.


Michele Rivers, RMC, Township Clerk

Prepared by:
DASTI & ASSOCIATES

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753