

**ORDER PURSUANT TO THE DECLARATION OF
DISASTER AND EMERGENCY**

#2020-07

**TO ALL RESIDENTS AND PERSONS WITHIN THE MUNICIPALITY OF THE
BOROUGH OF SHIP BOTTOM IN THE COUNTY OF OCEAN AND STATE OF NEW
JERSEY AND TO ALL DEPARTMENTS OF THE MUNICIPAL GOVERNMENT OF
THE BOROUGH OF SHIP BOTTOM**

WHEREAS, pursuant to the powers vested by Chapter 251 of the laws of 1942, as amended and supplemented, N.J.S.A. App. A: 9-30, *et seq.*, N.J.S.A. A. 40:48-1 *et seq.* and all applicable statutory law and regulations, as well as Chapter 2.66.030 paragraph B of the Borough of Ship Bottom ("Borough") declared on March 24, 2020, that a local disaster/emergency exists within by and through the required authorization of the Mayor and the Emergency Management Coordinator; and

WHEREAS, it is evident the COVID-19 pandemic has and will continue to have catastrophic consequences for the Borough's small business and economy, including, but not limited to, the restaurants and their owners and employees located in the Borough; and

WHEREAS, the CDC and the State of New Jersey have stated that social distancing guidelines and other health measures will continue to be required while the State relaxes the scope of the isolation orders and begins to reopen the economy; and

WHEREAS, the Borough implemented Executive Order 2020-05 in order to further protect the public health, welfare, and safety, support the seasonal economy and restaurants in their slow and difficult recovery, and support the Borough's position as a premier summer destination for families, the Borough deemed it necessary and compelling to authorize the expansion of outdoor restaurant seating and serving areas for the summer 2020 season; and

WHEREAS, the Borough implemented Executive Order 2020-06 amending the former Order to extend restaurant hours of operation and to clarify permitted use of Live Music and now wishes to implement an extension of the date at which outdoor dining shall be effective until; and

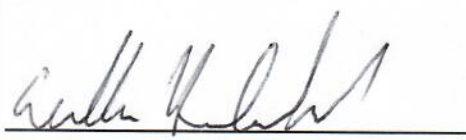
WHEREAS, the Borough entered Emergency Order 2020-03, which adopted certain emergency regulations relating to the beaches and Executive Order 107 rendered many of the regulations set forth in Emergency Order 2020-03 invalid; and

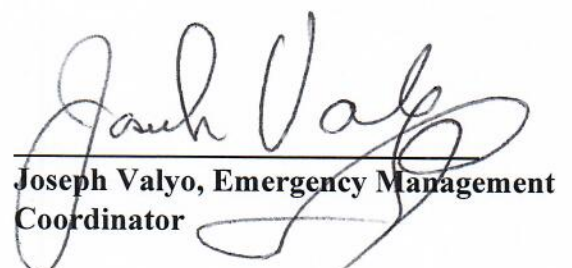
WHEREAS, Emergency Order 2020-03 continues to regulate the issuance of beach buggy permits and the Borough hereby revises those regulations as provided herein.

NOW, THEREFORE, the aforesaid laws and recitals remain in effect but shall be amended as follows (underscores represent additions; ~~strikethroughs~~ represent deletions): it is promulgated and declared that until further Order of the Borough, immediately.

- A.** Except as provided herein, the terms of this Order shall be effective when the State reopens restaurants for in-person dining and is subject to the terms of the State's regulations to the extent they conflict with the terms set forth herein.
- B.** All restaurants, may seek approval to temporarily create and/or expand outdoor seating areas. For purposes of this Order, restaurants shall mean restaurants approved for interior seating and in-person dining and shall not include restaurants that are takeout only and have not received approval for indoor seating. Takeout establishments shall not be permitted to seek the outdoor seating areas authorized by this Order.
- C.** Subject to the approval of the proposed seating and area layout, at the sole and absolute discretion of the Borough, restaurants shall be permitted to create and/or expand outdoor seating areas into the sidewalk and parking lot areas owned by the restaurant. Such areas shall be located within property the property lines of the property owned by the restaurant. The Borough's discretion over the location, scope, setbacks, and size of outdoor seating areas and related structures is absolute and the Borough may condition approval based upon such requirements and any other consideration, including, but not limited to, parking requirements, pedestrian safety, neighborhood concerns, and the public health, welfare, and safety.

- D. The maximum permitted occupancy of a restaurant may be revised at the Borough's discretion in order to ensure that all restaurants comply with the CDC and State recommended social distancing guidelines.
- E. In addition to the creation and/or expansion of the outdoor seating areas, restaurants shall be permitted to apply to install tents or umbrellas authorized by the Borough to protect the outdoor seating area from the elements.
- F. Borough restaurants shall be required to apply to the Borough for approval to expand their outdoor seating areas. Each applicant shall be required to provide plans establishing the proposed indoor and outdoor seating areas, and the proposed structures to protect outdoor seating area from the elements. All applications shall be approved or denied at the sole discretion of the Mayor, Zoning Department, and Health Department. Any approval may be subject to additional conditions of approval, the type or scope of structures, the location of the proposed areas, and so on. The applications shall be available at the Municipal Clerk's Office and online on the Borough's website.
- G. Upon approval of the application of the proposed outdoor seating area, the restaurants shall be permitted to engage in all otherwise lawful permitted activity engaged inside in the approved outdoor seating areas providing the applicant have all local and State approvals.
- H. Outdoor seating areas shall be permitted to stay open until 12:00 a.m. Such establishments must be serving food. If there are complaints or violations of this order the Borough may rescind the extended time frame to be open.
- I. Live Music shall be permitted providing a site plan depicts that it is permitted to have outside music. If an establishment does not have Land Use Board Approval live music shall not be permitted.
- J. Beach buggy permits shall be allowed on the beaches between 6:00 p.m. and 9:00 a.m. through October 1, 2020, effective immediately, and following October 1, 2020, beach buggy permits shall be governed by the regular restrictions.
- K. Each specific violation of this Order shall be considered a separate violation, the owners of the restaurants shall be subject to potential multiple violations during the course of each day, and each day in violation shall be considered a separate violation.
- L. The Emergency Management Coordinator, the Borough Police Department, and the Zoning Department shall be charged with the enforcement of the terms of this Order.
- M. Penalties for violations of this Order may be imposed under, among other statutes N.J.S.A. App. A:9-49 and -50, and the Borough Code and the temporary grant provided herein to restaurants may be revised or revoked by the Borough.
- N. Unless otherwise expressly provided by this Order, all terms and requirements of the Borough Code shall continue to apply to the restaurants. The Borough shall have absolute discretion to amend any approval, condition, and restriction set forth in this Order. To be considered for permanent outside seating applicants must apply to the Land Use Board for a variance. Under no circumstances shall this order be permanent.


William Huelsenbeck, Mayor


Joseph Valyo, Emergency Management
Coordinator

Date: 9/10/2020