

**BOROUGH OF RIVER EDGE**  
**RESOLUTION NO. 20-163**

**A RESOLUTION OF THE BOROUGH OF RIVER EDGE, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, TEMPORARILY MODIFYING CERTAIN OUTDOOR DINING REQUIREMENTS TO ENABLE LOCAL RESTAURANTS TO IMPLEMENT SOCIAL DISTANCING AND FACILITATE SMALL BUSINESS RECOVERY IN LIGHT OF THE COVID-19 PUBLIC HEALTH EMERGENCY**

**WHEREAS**, a worldwide pandemic has occurred involving a novel Coronavirus more commonly known as COVID-19; and

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

**WHEREAS**, on March 16, 2020, Governor Murphy issued Executive Order 104 enacting several “social distancing” regulations, including but not limited to, limiting public gatherings to no more than 50 people, closing educational facilities, closing various recreation and entertainment based businesses, imposed restrictions on scope of service and hours of operation for other non-essential retail, recreational, restaurants/bars and entertainment businesses; and

**WHEREAS**, on March 21, 2020, Governor Murphy issued Executive Order 107 which expanded the social distancing regulations set forth within Executive Order 104, including but not limited to, directing all New Jersey remain in their home or place of residence with specific limited exceptions, prohibited gatherings of any size, closed all non-essential retail businesses and identified essential businesses permitted to continue to operate subject to specific limitations, and reiterated and strengthened social distancing requirements when in public; and

**WHEREAS**, on March 21, 2020, Governor Murphy also issued Executive Order 108 which specifically voided and precluded County and Municipal Governments from imposing or enforcing any restrictions/regulations that in any way would or might conflict with any of the provisions of Executive Order 107, with the exception of regulating online marketplaces for arranging or offering lodging, municipal or country parks, and beaches and boardwalks; and

**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, all bars, and all other holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses;” and

**WHEREAS**, on June 3, 2020, Governor Murphy issued Executive Order 150 which allows outdoor dining at food or beverage establishments in New Jersey starting on Monday, June 15, 2020, provided that establishments follow a number of COVID-19 health and safety protocols issued by the New Jersey Department of Health, including a limit of eight customers per table, requirements of at least six feet of distance between parties, and a prohibition on smoking in any outdoor areas designated for the consumption of food and/or beverages; and

**WHEREAS**, Executive Order 150 further notes that Municipal Governments are permitted to use their existing authority to allow food or beverage establishments to expand their footprint to outdoor areas, both within their property and among municipally-governed areas, including but not limited to sidewalks, streets, or parks; and

**WHEREAS**, in consideration of the above and the great hardship and uncertainty the COVID-19 public health emergency has caused to the businesses of River Edge, the Governing Body desires to support the economic recovery of local restaurants and businesses by temporarily modifying certain outdoor dining restrictions so that restaurants are able to serve customers while satisfying social distancing requirements; and

**WHEREAS**, the Borough Attorney, Engineer and Planner and Land Use Board Attorney have reviewed same and found the temporary modification satisfactory; and

**WHEREAS**, the Governing Body finds it in the best interest of the Borough to temporarily modify certain restrictions.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of River Edge, in the County of Bergen and State of New Jersey, as follows:

1. Outdoor dining shall be temporarily permitted as an accessory use to all restaurant uses, including food service establishments as defined in the Borough Code at §348-1 as well as bars and taverns.
2. Temporary outdoor dining as permitted by this Resolution shall not require the filing of a Site Plan Application with the Borough Land Use Board.
3. A Temporary Outdoor Dining Application attached hereto as Exhibit A must be obtained and approved by the Borough Administrator or Zoning Officer prior to the creation or expansion of any outdoor dining area. A drawing of the proposed outdoor dining area must accompany the Zoning Permit Application. This drawing shall show the location, size and quantities of all proposed table and chairs and distances to other tables and chairs and distances from any other structures. All distance separations shall comply with all 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, including but not limited to the New Jersey Department of Health Executive Directive on Outdoor Dining and those established by the State Division of Alcohol Beverage Control.
4. The Borough shall waive the filing fee for a Temporary Outdoor Dining Application, and the Borough shall expedite the review of all such Temporary Outdoor Dining Applications.
5. The regulations pertaining to “sidewalk cafes” set forth at §348 of the Borough Code shall be temporarily suspended and replaced with the following standards which shall be applicable to temporary outdoor dining:
  - a. The number of seats permitted in the outdoor dining area may not exceed 50% of the total seating capacity previously approved for the eating and/or drinking establishment.
  - b. Outdoor dining areas may be located on patios, walkways, plazas and courtyards in a manner that does not impair pedestrian circulation. Outdoor dining areas may also be located, at the discretion of the Zoning Officer, on public sidewalks and private lawn areas and parking lots, provided that pedestrian and vehicular circulation is not impaired and further provided, in the case of parking lots, that outdoor dining shall not occupy more than 35% of the minimum number of required spaces for the totality of the site’s uses as set forth in Chapters 416 and 350 of the Borough Code.

- c. Where outdoor dining is proposed within a parking lot, driveway or roadways, bollards or other protective structures approved shall be erected along the perimeter of the outdoor dining area in order to ensure public safety at the discretion of the Borough Engineer.
  - d. If the outdoor dining area is proposed to be utilized after dark, temporary lighting shall be required. However, such lighting shall be installed to minimize impact to surrounding residential properties and public roadways at the discretion of the Borough Zoning Officer, Engineer or Chief of Police.
  - e. Landscaping and landscape planters around and/or within the outdoor dining area shall be permitted and are encouraged but are not required.
  - f. Awnings, umbrellas, canopies attached to a building wall, and heating units shall be permitted within outdoor dining areas; however, tents are permitted with no side walls.
  - g. Eating and drinking establishments may display one temporary sign per street frontage, each not to exceed 16 square feet to notify the public of in-house, take-out, and/or outdoor dining options and any restrictions in place due to the COVID-19 public health emergency. Such temporary signs shall be non-illuminated.
  - h. All outdoor dining areas must be closed with lighting turned off Thursday, Friday, Saturday by 11pm and Sunday -Wednesday by 10pm. Outdoor dining area shall be subject to the Borough's noise and nuisance requirements. The Borough shall have the discretion to enforce measures to mitigate or eliminate nuisances including the revocation of a temporary outdoor dining permit.
  - i. An applicant for a proposed temporary outdoor dining area must have previously secured site plan approval from the Borough Zoning Board of Adjustment or Planning Board and must be in compliance with its existing site plan approval.
  - j. Temporary outdoor dining facilities shall provide access to restrooms for patrons as may be required by the State and/or Borough Health Department. Such facilities shall be cleaned and maintained accordingly.
  - k. The Borough Zoning Officer shall have the discretion to create additional standards for a particular property and to enforce such conditions as may be necessary to further the purposes of Chapters 416 and 350 of the Borough Code, as well as the goals and objectives of the Borough Master Plan and to ensure public health, safety and welfare.
6. In addition to the above, outdoor dining areas must comply with all 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, including but not limited to the New Jersey Department of Health Executive Directive on Outdoor Dining. Eating and drinking establishments shall also continue to follow all rules and regulations of the Health Department and Division of Alcoholic Beverage Control, as well as all applicable local, State and federal laws.

- 7. The Borough Zoning Officer, Chief of Police, Fire Official, Construction Official, Engineer and Administrator reserve the right to put in place specific requirements or restrictions in order to protect the health, safety and welfare of the general public. Appeals of such requirements may be filed with the Borough Council.
- 8. This Resolution shall be effective beginning June 15, 2020 pursuant to the Governor’s Executive Order 150.
- 9. This Resolution shall remain in effect through the end of 2020 unless this Resolution is otherwise amended or vacated by the Borough Council.
- 10. This Resolution does not permit the construction of or alternation to any building or structure. No changes may be made that alter the existing character of any building or structure.
- 11. This Resolution applies only to establishments already approved to operate as an eating or drinking establishment as of this Resolution’s date of adoption.
- 12. Except for the relaxation of requirements as specifically authorized by this Resolution, all provisions of Chapter 230 of the Township Code remain in full effect.
- 13. Smoking shall be prohibited within 50 feet of all outdoor dining areas.

This Resolution shall take effect immediately.  
Dated: June 8, 2020

Attest:

BOROUGH OF RIVER EDGE

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Stephanie Evans, Borough Clerk

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Thomas Papaleo, Mayor

	Motion	Second	Yes	No	Abstain	Absent
Busteed			X			
Chinigo	X		X			
Gautier			X			
Kaufman		X	X			
Kinsella			X			
Koen			X			
Mayor Papaleo						

I hereby certify that this resolution, consisting of 4 page(s), was adopted at a meeting of the Mayor and Council of the Borough of River Edge, held on this 8<sup>th</sup> day of June, 2020.

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Stephanie Evans, Borough Clerk