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# ◆ TOWNSHIP OF STAFFORD ◆

OCEAN COUNTY  
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Gregory Myhre  
Mayor

Matthew von der Hayden  
Administrator



## ORDER PURSUANT TO THE DECLARATION OF DISASTER AND EMERGENCY COVID-19 - TOWNSHIP OF STAFFORD

**TO ALL RESIDENTS AND PERSONS WITHIN THE MUNICIPALITY OF THE TOWNSHIP OF STAFFORD IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY AND TO ALL DEPARTMENTS OF THE MUNICIPAL GOVERNMENT OF THE TOWNSHIP OF STAFFORD**

**WHEREAS**, in or about December of 2019, the emergence of the novel Coronavirus Disease (COVID-19), caused by the SARS-CoV-2 virus ("Coronavirus"), was discovered in Wuhan, Hubei Province, People's Republic of China, and was recognized to be a severe, potentially fatal, highly infectious respiratory illness that was suspected of human-to-human transmission; and

**WHEREAS**, on January 30, 2020, the World Health Organization (WHO) declared the outbreak of Covid-19 to be a Public Health Emergency of International Concern as human-to-human transmission of the Coronavirus was confirmed, and outbreaks of the Coronavirus began to spread to numerous other countries throughout the world; and

**WHEREAS**, on January 31, 2020, the United States Department of Health and Human Services Secretary declared COVID-19 to be a United States Public Health Emergency; and

**WHEREAS**, on February 3, 2020, Governor Philip D. Murphy issued Executive Order 102 establishing the New Jersey Coronavirus Task Force in an effort to monitor the spread of the Coronavirus within the State of New Jersey, the United States of America, and the entire world in order to facilitate necessary and appropriate action to ensure the safety and security of the residents of the State of New Jersey; and

**WHEREAS**, on March 4, 2020, the State of New Jersey reported the first confirmed positive case of Coronavirus in this State; 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 COVID-19 pandemic within the State of New Jersey; and

**WHEREAS**, on March 13, 2020, the President of the United States formally declared the outbreak of Coronavirus to constitute a National Emergency pursuant to the National Emergencies Act, 50 U.S.C. § 1601, et seq; 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 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, restaurant/bars and entertainment 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 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 county 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**, in the anticipation that the regulations, prohibitions, and social distancing requirements within the Governor's Executive Orders may be relaxed and/or modified in the coming weeks or months, potentially permitting these establishments to operate at reduced capacities and/or with social distancing requirements, the Township of Stafford finds it to be appropriate to temporarily relax the procedures associated with site plan review and approval in order to permit said establishments to locate tables outdoors, in the Township pedestrian right-of-way and/or in other locations on site, subject to the requirements and restrictions set forth herein, until further Order of the Township, the following emergency restrictions and regulations are effective immediately, but remain subject to any Executive Order of the Governor, including the relaxation of prior orders and/or subsequent orders; and

**WHEREAS**, to the extent that the Township finds it appropriate to temporarily relax procedures associated with site plan review and approval in order to exercise appropriate social distancing during the state of emergency while enabling full-service restaurants to operate and locate tables outdoors, in the Township's pedestrian right-of-way and/or in other locations on site. For purposes of this order, "full-service 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. Take out establishments, food trucks and mobile food vendors shall not be permitted to seek the outdoor seating areas authorized by this Order.

**NOW, THEREFORE, IT IS ON THIS XXX DAY OF MAY, 2020, HEREBY ORDERED**, by the Mayor and Chief of Police of the Township of Stafford, County of Ocean, State of New Jersey as follows:

1. The precatory phrases above are specifically incorporated herein by reference and are made a part hereof as if each and every statement were set forth fully herein.
2. Effective immediately, and contingent upon the State of New Jersey relaxing the provisions of Executive Order 107, specifically the provisions pertaining to the operation of restaurants in relation to social distancing requirements, the Township of Stafford is hereby granted the authority and discretion to waive site plan applications pertaining to existing full-

service restaurants in order to permit said establishments to relocate existing tables/seating to the Township pedestrian right-of-way and/or other locations on site, subject to the following requirements and restrictions. All applications shall be subject to approval of the Township Administrator, Chief of Police, Construction Department and Fire Prevention Official; in their sole discretion, all individuals having to agree. The Township's discretion over location, scope, setbacks and size of outdoor seating areas and related structures is absolute and the Township may condition approval based upon such requirements as any other consideration, including, but not limited to, applicable federal, state or local executive and emergency orders, parking requirements, pedestrian safety, neighborhood concerns and the public health, welfare and safety.

a. Individual full-service restaurants seeking approval to relocate existing tables/seating to the Township's pedestrian right-of-way and/or other locations on site, shall be required to submit a site plan application, and a plan signed and dated by the owner or agent depicting the existing and proposed layout and location of tables/seating inside and outside of said restaurant, which shall also include but not be limited to, confirmation of the number of existing, approved tables/seats, a depiction of all aisles, routes of ingress and egress, clearances/distances between tables and between the seating area and the curb line, the location of all food service areas, a lighting plan connected to a ground fault interrupter circuit or receptacle, an illustration, rendering, and/or photograph of all proposed furniture, umbrellas, trash receptacles and any proposed structures to protect the outdoor seating area from the elements. Proposed tables/chairs, furniture, umbrellas, trash receptacles, etc. must be of like nature and appearance to what is currently utilized on site. Applicants shall also submit a brief written narrative describing the proposed method of serving food, beverages and how existing restroom facilities will be accessible to customers for the newly proposed areas. Outside cooking will not be permitted. Applications shall be available in the Construction/Zoning Department or online at the Township's website. The approval of any temporary site plan in relation to this Order shall be subject to the following conditions:

i. Applicants will be permitted to relocate existing approved tables/seats to other locations on site, including the Township's pedestrian right-of-way, subject to the review and approval of the Township Administrator, Chief of Police, Construction Department and Fire Prevention Official. Notwithstanding the provisions of this Order, no tables/seats shall obstruct the free flow of pedestrian traffic or any of its approaches.

ii. No increase in the number of tables/seats will be permitted, and applicants will not be permitted to exceed the number of previously approved tables/seats. The maximum occupancy of a restaurant may be revised at the Township's discretion in order to ensure that all restaurants comply with the CDC and State recommended/ordered social distancing guidelines. The restaurant will provide a social distancing plan for seating with each application.

iii. In addition to the creation and/or expansion of the outdoor seating areas, restaurants shall be permitted to apply to install temporary awnings, tents, pergola and other structures authorized by the Township to protect the outdoor seating area from the elements.

iv. Tables/seats shall be permitted to be located in the Township's pedestrian right-of-way provided a minimum 5ft. pedestrian walkway is maintained and provided for the general public, subject to applicable ADA requirements.

v. Any approved tables/seats/tents located in an outdoor dining area are permitted to be utilized between the hours of 7:00 a.m. and 11:00 p.m. on Sunday through Thursday, and until 12:00 a.m. on Friday and Saturday. Tables/seats/tents approved to be located within the Township's right-of-way must be removed from the right-of-way and stored on site on a daily basis. Tables/seats/tents approved to be located on site, in areas privately-owned, shall

be permitted to remain in said locations. If a tent or supported structure, 30 x 30 or bigger, requires a fire permit under the NJ State fire code, the fee is \$54.00. This fee will be waived during the declared emergency.

vi. Applicants must submit a Litter Control Plan, which shall include a description of the number and location of the trash receptacles proposed on the site plan to service the outdoor dining area, and the frequency with which the outdoor dining area will be policed for the litter in order to control the accumulation of trash/recycling.

vii. The sale/service of alcoholic beverages in these locations shall be permitted, subject to compliance with any and all applicable ABC regulations/statutes, including but not limited to a temporary extension of premises application, and subject to the review and approval of the Township Administrator and Chief of Police. The approval of any temporary extension of premises application to permit the sale/consumption of alcoholic beverages in outdoor dining areas shall be temporary and shall automatically terminate upon the State of New Jersey rescinding Executive Order 107 and/or the elimination of all social distancing regulations.

viii. Applicants proposing to relocate existing tables/seats to the Township's pedestrian right-of-way shall indemnify and hold harmless the Township of Stafford, its employees, agents, and/or officers from all claims, losses, liens, expenses, suits and attorney's fees arising out of the placement, operation, and maintenance of the Outdoor Dining Area. Applicants must name the Township of Stafford as an additional insured under the Applicant's general liability insurance, bodily injury, property damage, and personal injury insurance policies, required to have a minimum limit of one million (\$1,000,000.00) Dollars, and provide proof of same to the Zoning Officer, and proof that said policies have been amended to reflect coverage for the proposed outdoor dining area.

3. The Township of Stafford reserves the right to amend, terminate, or repeal this Order at any time, and accordingly no property rights are granted to any person(s) or entities by virtue of this Order. **All person(s) and/or entities electing to pursue temporary relief in accordance with the provisions of this Order are hereby given notice that the expenditure of any funds, or the incurrence of any costs, in reliance upon the provisions of this resolution shall be at their sole and exclusive expense.** All persons and/or entities are hereby given notice that the risk of loss for any expenditure and/or costs incurred shall be their sole and exclusive responsibility.

4. With the exception of the temporary relief set forth herein, Applicant's must comply with any and all other federal, state, county, and local laws and regulations, including any and all other existing zoning ordinances and/or general ordinances governing the operation of restaurants

5. In the event, the Stafford Township Police Department or Code Enforcement Officer determines that an Applicant is in violation of the conditions of any temporary site plan approved in relation to this Order, each specific violation of this Order and each day that such violation continues shall be considered a separate violation, the owners of said 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. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50, the Township Code and the temporary relief granted herein to restaurants may be revised or revoked by the Township of Stafford.

6. This Resolution shall take effect immediately, but remains subject to relaxation of the provisions of Executive Order 107, including, but not limited to the provisions pertaining to the operation of restaurants in relation to social distancing requirements, and subject to any subsequent social distancing requirements imposed by Executive Order of the Governor. In the event Executive Order 107 is rescinded with no subsequent executive order, or should social distancing requirements be eliminated, any temporary approval afforded by the Township of Stafford in accordance with the terms and conditions of this Order shall be deemed void, and Applicants shall be required to immediately return tables/seats to their previously approved locations.


7. By this Order the Township of Stafford requests that the Director of the New Jersey Division of Alcoholic Beverage Control exercise the authority conferred upon the Director by the provisions of N.J.A.C. 13:2-5.5 and N.J.A.C. 13:2-9.1 to immediately implement procedures whereby liquor licenses may obtain permits providing for the temporary extension of licensed premises to the outdoor table areas that are approved pursuant to the provisions of this Resolution for so long as such municipal approval is valid without the necessity of having to file a formal place-to-place (expansion of licensed premises) application with the local alcoholic beverage control board.

8. Unless otherwise expressly provided by the Order, all terms and requirements of the Township of Stafford Code shall continue to apply to the restaurants and the proposed structures, included, but limited to, construction permits for the installation of any proposed structures at the restaurant property. The Township shall have absolute discretion to amend any approval, condition and restriction set forth in this Order. Once the Governor's Executive Orders requiring social distancing is lifted all temporary seating shall be removed within forty eight hours and the owner shall fully comply with their approved site plans.

9. This Declaration and Order shall remain in effect until subsequent Order of the Township of Stafford.

  
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Gregory E. Myhre, Mayor

Dated: 8/7/2020

  
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Thomas Dellane  
Chief of Police/Emergency  
Management Coordinator

Dated: 8/7/2020