

ORDINANCE # 03 of 2011

AN ORDINANCE PERMITTING OUTDOOR AND SIDEWALK TABLES, CHAIRS AND BENCHES FOR RESTAURANTS

BE IT ORDAINED by the Commissioners of the City of Margate City, County of Atlantic and State of New Jersey that:

SECTION 1: PURPOSES.

The purpose of this ordinance is to permit daytime and early evening outdoor dining on private property and sidewalks adjacent to local restaurants for the enjoyment of restaurant patrons without disturbing the immediate neighborhood or pedestrian traffic. It is intended to permit the tasteful, aesthetic use of tables and chairs on adjacent property and sidewalks of local restaurants under the direction and approval of the Margate City Code Enforcement Department. It is the intention of the Commissioners of the City of Margate to monitor and review the use of these facilities after the adoption of this ordinance to determine its full impact upon the City and the enjoyment of its citizens.

SECTION 2: DURATION.

This ordinance shall be in effect from the date of its enactment until December 31, 2010. In the event the ordinance is not readopted in its present form, or as amended, the rights conferred herein will be immediately terminated.

SECTION 3: APPLICABILITY.

This ordinance applies to all food establishments, restaurants and bars in the City of Margate.

SECTION 4: PERMITTED INSTALLATIONS.

- A. Outdoor tables and chairs shall be permitted within the property commonly owned and adjacent to the food establishment and service thereto for the patrons provided:
 - 1. The design of the tables and chairs is aesthetically pleasing and complementary to the surrounding architecture.
 - 2. The layout of tables and chairs does not in any way interfere with pedestrian or vehicular safety, or with necessary access for fire fighting equipment and ambulances or personnel.
 - 3. The layout shall not cause irreparable damage to existing landscaping.
 - 4. No alcoholic beverages of any kind shall be served or consumed in conjunction with the outdoor dining on public sidewalks. No alcoholic beverages brought to the establishment by patrons or other persons shall be served or consumed in the outside facility on public sidewalks. A placard shall be affixed to each outside table at all times stating: "consumption or service of alcoholic beverages of any kind is prohibited at the outdoor facility on public sidewalks by City Ordinance."
 - 5. The highest standards of cleanliness of the outdoor area are to be maintained at all times, including frequent litter removal, within and around and beyond the subject property. A plan for litter removal, trash handling, and overall cleanliness and maintenance must be submitted together with the application.
 - 6. The hours for outdoor service shall be between 7:00 a.m. and 10:00 p.m.. All tables, chairs and equipment shall be removed and placed securely indoors no later than 10:30 p.m..
 - 7. No outdoor music or public address system shall be permitted.
 - 8. No outside lighting shall be permitted except small individual table lighting that is self-powered.
 - 9. Outdoor seating shall not be permitted if it will interfere in any way with the peace and quietude of nearby residences.
 - 10. Low barriers of temporary nature may be placed at the edge of the seating area during business hours so long as there is no interference with public safety or pedestrian movement patterns.
 - 11. No outside cooking of any kind.
- B. Outdoor tables and chairs on the public sidewalk, directly in front of or adjacent to the food establishment, and service thereon to patrons shall be permitted provided:

1. All above parameters as set forth in A. 1 through 11 above shall apply.
2. The table and chair layout (and low barrier) shall be so arranged that considering patrons are sitting in all chairs, there is an unobstructed passageway for pedestrians of no less than 6 feet, between the seating area and edge of the curb, or between the seating area and news boxes, trees, poles or other sidewalk installations.

C. Service of patrons in outside facilities.

1. No direct sales to patrons through an opening in walls or windows shall be permitted.

SECTION 5: APPROVAL OF PLAN BY CODE ENFORCEMENT OFFICE.

Any establishment for which this ordinance is applicable must make application to the Code Enforcement Office, and receive approval from the Office prior to setting up any outside services, tables or chairs. *The application must be renewed annually.* The application shall be on prescribed forms and shall be filled out completely and submitted with the following attachments and exhibits, in triplicate:

- A. Scaled layout of tables and chairs, and low barrier if proposed, showing dimensions of tables, chairs and overall area, as related to building façade, sidewalk, existing poles, news boxes, trees or other sidewalk installations.
- B. A detailed narrative and plan of relevant information, describing method of service, proposed hours of service outdoors and method of litter control and trash handling for outdoor service.
- C. Photographs or diagrams of tables, chairs, etc. to be utilized, showing style, design, materials, size and colors.
- D. Evidence regarding where tables and chairs, etc., will be stored indoors after 10:30 p.m..
- E. Landscaping layout in so far as landscaping relates to table and chair arrangement.
- F. Proof of insurance in accordance with requirements of Section 6.

The Code Enforcement Office may approve each application as submitted, or may approve the application with amendments and conditions or may disapprove an application. Appeal of any disapproval, conditional or amended approval may be made to the Margate City Zoning Board by the standard Zoning Board application process.

In processing applications, the Code Enforcement Office shall confer as it deems necessary with the Building Department, Police and Fire Departments, Zoning and Planning Departments, Staff Committee, City Clerk and/or City Engineer, and shall use as criteria for decision making, the following parameters:

- A. Pedestrian safety.
- B. Vehicular safety.
- C. Public safety.
- D. Design, material, color, layout aesthetics and architectural conformity.
- E. Acceptability of the management plan for cleanup, litter control and trash handling.
- F. Impact on existing landscaping.
- G. Any potential interference with police or fire safety access.

SECTION 6: INSURANCE REQUIREMENT

Applicant must have liability insurance in effect at the time of the application. If restaurant operator is not the property owner, then the property owner must likewise have insurance in effect at the time of application by the restaurant operator. The City of Margate City must be named as an additional insured on the operator's policy as well as on the property owner's policy. The limits of liability required are a minimum of \$500,000 combined single limit bodily injury and property damage or a split limit of \$500,000 bodily injury liability and \$100,000 property damage liability. In addition, the County of Atlantic requires an additional Certificate of Insurance indemnifying the County as well as a hold harmless agreement.

SECTION 7: MISCELLANEOUS PROVISIONS.

- A. Applicable establishments as set forth in Section 3 are permitted to place benches for patrons awaiting seating, so long as an application as set forth above is submitted and all other parameters of this ordinance are satisfied.
- B. It is solely the responsibility of the proprietor of the establishment to obtain Board of Health approval, if necessary, from the County Health Department.
- C. It shall not necessary to modify the Mercantile License as part of the approval process.
- D. Outdoor tables shall not in any way interfere with or reduce the amount of legally required off-street parking for the establishment.
- E. An amendatory application is permitted, but changes to the approved plan shall not be permitted without receiving approval of an amended application.
- F. There shall be no fee require for making application herein.

SECTION 8: VIOLATIONS AND PENALTIES:

The violation of the prohibition against the sale and consumption of alcohol beverages by the proprietor or patrons or any other provision of this ordinance shall result in a written warning and a meeting regarding compliance with the ordinance with the Code Enforcement Department. A second violation of the prohibition against the sale or consumption of alcoholic beverages on the premises, or any other provision of this ordinance will result in an immediate termination of the City’s approval and outdoor and sidewalk dining and/or penalties up to the sum of \$1000.00.

SECTION 9:

All ordinances or parts of ordinances inconsistent herewith are hereby repealed and this ordinance shall take effect immediately upon final passage and publication as provided by law.

Board of Commissioners of the City of Margate City,
New Jersey

Introduced: March 17, 2011

Adopted: