

### **CALL TO ORDER**

Mayor Myhre called the regular meeting to order at 8:00 a.m. and stated that in compliance with the "Open Public Meetings Act" this Meeting was duly noticed to the Hunterdon County Democrat and the Express Times on June 10, 2020; the Agenda has been posted at Borough Hall and distributed to the newspapers.

### **FLAG SALUTE**

Mayor Myhre asked everyone to stand for the flag salute.

### **ROLL CALL**

Present for the Meeting:

Liz Johnson  
Michele Liebtag  
Tami Peterson  
Caroline Scutt

Absent from Meeting:

Kandy Ferree  
William Sullivan

Attorney Albert Cruz, and Borough Clerk, Brenda S. Shepherd, were present for the Meeting. No members of the public were also present.

### **PUBLIC COMMENTS**

The Council approved to open the public comment session. Having no comments, Mayor Myhre closed the public comment session.

### **ORDINANCES**

**Ordinance #852 - An ordinance permitting temporary outdoor dining for food establishments, clubs, lodges, and/or fraternal organizations and temporary outdoor display of merchandise during the COVID-19 pandemic (Introduction)**

Mayor Myhre noted that this ordinance will allow outdoor dining and outdoor display of merchandise for a temporary period until November 20, 2020. He asked for a motion to introduce the ordinance.

On motion by Caroline Scutt and seconded by Michele Liebtag and carried by unanimous favorable roll call vote, the Mayor and Common Council approved the introduction of ordinance #852 as follows:

**ORDINANCE #852  
BOROUGH OF FRENCHTOWN  
HUNTERDON COUNTY, NEW JERSEY**

**AN ORDINANCE PERMITTING TEMPORARY OUTDOOR DINING FOR FOOD ESTABLISHMENTS, CLUBS, LODGES, AND/OR FRATERNAL ORGANIZATIONS**

**AND TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE DURING THE  
COVID-19 PANDEMIC**

**WHEREAS**, as a result of the Executive Order #103, on March 9, 2020, Governor Murphy issued a State of Emergency due to the COVID-19 pandemic (the “COVID-19 Pandemic”); and **WHEREAS**, numerous Executive Orders have been issued by the Governor since that time to deal with a myriad of economic and social issues affecting New Jersey residents due to the COVID-19 pandemic; and

**WHEREAS**, the Mayor and Council desire to permit temporary outdoor dining to assist local food establishments, clubs, lodges, and/or fraternal organizations in reopening and operating in these unique times; and

**WHEREAS**, the Mayor and Council desire to permit temporary outdoor display of merchandise to assist local retailers in reopening and complying with the reduced occupancy limitations established by the State.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Frenchtown as follows:

**Section 1.** Article III “General Requirements”, Section 301 “Exceptions, Modifications and Supplementary Regulations”, Subsection O “Temporary Uses” shall be amended to add a new subsection 5 entitled “Temporary Outdoor Dining” as follows:

5. Temporary outdoor dining.

a. Purpose.

The purpose of this Ordinance is to permit outdoor dining on private property and sidewalks adjacent to local food establishments, clubs, lodges, and/or fraternal organizations for the enjoyment of patrons without disturbing the immediate neighborhood or pedestrian traffic during the time that Governor Murphy’s Executive Orders relative to the COVID-19 Pandemic remain in effect. It is intended to permit the tasteful, aesthetic use of tables and chairs on adjacent property and sidewalks under the direction and review of the Zoning Officer.

b. Applicability.

This Ordinance applies to all bakeries, coffee shops, delicatessens, gourmet food shops, restaurants, tasting rooms, coffees shops, restaurants, clubs, lodges, and fraternal organizations.

c. Permitted Installations. Outdoor tables, chairs and umbrellas shall be permitted on a solid surface on the property owned or rented by the food establishment, club, lodge, and/or fraternal organization, on the sidewalk immediately adjacent to the food establishment, or on the sidewalk in front of neighboring businesses provided:

- 1) If the Applicant proposes to place tables, chairs and/or umbrellas on property they rent, they will need written approval of the property owner. If the Applicant proposes to place tables, chairs and/or umbrellas on the sidewalk in front of neighboring businesses, they will need written approval of the neighboring property owner.

- 2) If the Applicant proposes to place tables, chairs and/or umbrellas within a privately-owned parking area there must be a clear delineation and separation between the parking and the dining area to protect the patrons.
- 3) With a privately-owned parking area, a tent may be installed, however, the Zoning Officer may need to consult with the Fire Official regarding said tent.
- 4) The layout of the tables, chairs and/or umbrellas do not in any way interfere with pedestrian safety or with necessary access for fire-fighting. A minimum four-foot-wide clearance shall be maintained on sidewalks for pedestrians.
- 5) The layout shall not cause irreparable damage to existing landscaping.
- 6) Unless approved in advance by the Division of Alcohol and Beverage Control with respect to a licensed premise, no alcoholic beverages of any kind shall be served or consumed in conjunction with the outdoor dining. With respect to a non-licensed premise, patrons of an unlicensed restaurant may be permitted by the ownership of the restaurant to bring only wine and beer for consumption at such outdoor tables.
- 7) The highest standards of cleanliness and proper social distancing shall be maintained at all times, including frequent litter removal. A plan for litter removal and trash handling shall be submitted with the Application. At least one waste receptacle shall be provided.
- 8) The hours of outdoor dining shall be between 7:00am and 10:00pm. All tables, chairs and/or umbrellas shall be properly secured by 10:15pm.
- 9) Outdoor music shall be permitted provided that no more than three (3) musicians or performers are allowed at one time, on an individual basis, and shall conclude by 10:00pm.
- 10) No outside lighting shall be permitted except small individual table lighting that is self-powered.
- 11) Outdoor dining shall not be permitted if it will interfere in any way with the peace and quiet of nearby residences, as determined by the Zoning Officer.
- 12) No outside cooking of any kind shall be permitted.

- 13) Outdoor dining shall be conducted in a manner consistent with Executive Order No. 150 or its successor, which includes table spacing, number of chairs, etc.
  - 14) Tables, chairs and/or umbrellas are not permitted on the street or in on-street parallel parking spaces.
  - 15) Temporary outdoor dining areas are solely an extension of the permitted business use within the immediately adjacent buildings or storefronts.
  - 16) As this is a temporary use, there is no parking requirement associated with the temporary outdoor dining.
- d. Approval of temporary outdoor dining by Zoning Officer. Any food establishment, club, lodge, and/or fraternal organization for which this Ordinance is applicable must make application to the Zoning Officer by way of a Zoning Permit prior to setting up any outside dining area. The Zoning Permit application shall be accompanied by the following, which can be prepared by the Applicant without the need for Licensed Professionals:
- 1) Scaled layout of tables, chairs and/or umbrellas showing dimensions of tables and the overall dining area;
  - 2) If an Applicant seeks to utilizing a private parking lot, detailed information on the method to delineate and separate the outdoor dining from the parking area;
  - 3) If an Applicant seeks to install a tent in a privately-owned parking lot, detailed information on the location of the tent, dimensions, materials, and method of anchoring said tent;
  - 4) A narrative of relevant information, describing the proposed hours of outdoor dining, proper social distancing, and method of litter control and trash handling for outdoor dining including size of receptacle and frequency of disposal;
  - 5) Photographs or diagrams of tables, chairs and/or umbrellas to be used;
  - 6) A narrative as to how tables, chairs and/or umbrellas will be secured overnight;
  - 7) Proof of insurance in accordance with the requirements of Section e below;

- 8) Written consent of the landlord in the event the applicant is a tenant of such establishment or written consent of the property owner if the applicant intends to use neighboring adjacent sidewalk space; and
  - 9) Detailed information on proposed outdoor music, including dates and times.
- e. Insurance Requirement.

Any Applicant must have liability insurance in effect at the time of the Zoning Permit application. The Borough of Frenchtown must be named as an additional insured on a primary and non-contributory basis on the policy if the outdoor dining is within the Borough right-of-way or on Borough property. The limits of liability required are a minimum of \$1,000,000 combined single limit bodily injury and property damage or a split limit of \$500,000 bodily injury liability and \$100,000 property damage liability. Workers Compensation and non-owned auto shall be included on the certificate. If the sidewalk in front of the neighboring business will be utilized, the neighboring property owner must be named as an additional insured on the policy. Furthermore, an indemnification agreement shall be submitted holding the Borough harmless.

- f. Duration.

The temporary outdoor dining permit shall be valid until October 31, 2020. However, if there are still State-mandated limitations on indoor dining after three months, the Mayor and Council may, by ordinance, extend temporary outdoor dining permits for an additional specified time period.

- g. Miscellaneous Provisions.

- 1) It is solely the responsibility of the operator of the food establishment to obtain Board of Health approval, if necessary, from the County Department of Health.
- 2) There shall be no Borough fees for temporary outdoor dining areas.
- 3) If any provision of this Section is violated, the Zoning Officer shall have the power to rescind the temporary outdoor dining permit.

**Section 2.** Article III “General Requirements”, Section 301 “Exceptions, Modifications and Supplementary Regulations”, Subsection O “Temporary Uses” shall be amended to add a new subsection 6 entitled “Temporary Outdoor Display of Merchandise” as follows:

6. Temporary outdoor display of merchandise.

- a. Purpose.

The purpose of this Ordinance is to permit outdoor display of merchandise on private property and sidewalks adjacent to retail establishments without disturbing the immediate neighborhood or pedestrian traffic during the time that Governor Murphy’s Executive Orders relative to the COVID-19 Pandemic remain in effect. It is intended to permit the tasteful, aesthetic use of displays on adjacent property and sidewalks under the direction

and review of the Zoning Officer.

b. Applicability.

This Ordinance applies to all retail establishments.

c. Permitted Installations. Display tables, stands, cases, racks, and the like shall be permitted on a solid surface on the property owned or rented by the retailer, on the sidewalk immediately adjacent to the retail establishment, or on the sidewalk in front of neighboring businesses provided:

- 1) If the Applicant proposes to place display tables, stands, cases, racks, and the like on property they rent, they will need written approval of the property owner. If the Applicant proposes to place display tables, stands, cases, racks, and the like on the sidewalk in front of neighboring businesses, they will need written approval of the neighboring property owner.
- 2) The layout of the display tables, stands, cases, racks, and the like do not in any way interfere with pedestrian safety or with necessary access for fire-fighting. A minimum four-foot-wide clearance shall be maintained on sidewalks for pedestrians.
- 3) The layout shall not cause irreparable damage to existing landscaping.
- 4) The highest standards of cleanliness and proper social distancing shall be maintained at all times.
- 5) The hours of outdoor merchandise display shall be between 7:00am and 10:00pm. All display tables, stands, cases, racks, and the like shall be properly secured by 10:15pm or moved inside.
- 6) Outdoor merchandise display shall not be permitted if it will interfere in any way with the peace and quiet of nearby residences, as determined by the Zoning Officer.
- 7) Display tables, stands, cases, racks, and the like are not permitted on the street or in on-street parallel parking spaces.
- 8) Temporary outdoor merchandise display areas are solely an extension of the permitted business use within the immediately adjacent buildings or storefronts.
- 9) As this is a temporary use, there is no parking requirement associated with the temporary outdoor merchandise display.

d. Approval of temporary outdoor merchandise display by Zoning Officer. Any retail establishment for which this Ordinance is applicable must make application to the Zoning Officer by way of a Zoning Permit prior to setting up any outside merchandise display area. The Zoning Permit application shall be accompanied by the following, which can be prepared by the Applicant without the need for Licensed Professionals:

- 1) Scaled layout of display tables, stands, cases, racks, and the like showing dimensions of the overall display area;
- 2) A narrative of relevant information, describing the proposed hours of outdoor merchandise display, and proper social distancing;
- 3) Photographs or diagrams of display tables, stands, cases, racks, and the like to be used;
- 4) A narrative as to how display tables, stands, cases, racks, and the like will be secured overnight;
- 5) Proof of insurance in accordance with the requirements of Section e below; and
- 6) Written consent of the landlord in the event the applicant is a tenant of such establishment or written consent of the property owner if the applicant intends to use neighboring adjacent sidewalk space.

e. Insurance Requirement.

Any Applicant must have liability insurance in effect at the time of the Zoning Permit application. The Borough of Frenchtown must be named as an additional insured on a primary and non-contributory basis on the policy if the outdoor merchandise display is within the Borough right-of-way or on Borough property. The limits of liability required are a minimum of \$1,000,000 combined single limit bodily injury and property damage or a split limit of \$500,000 bodily injury liability and \$100,000 property damage liability. Workers Compensation and non-owned auto shall be included on the certificate. If the sidewalk in front of the neighboring business will be utilized, the neighboring property owner must be named as an additional insured on the policy. Furthermore, an indemnification agreement shall be submitted holding the Borough harmless.

f. Duration.

The temporary outdoor merchandise display permit shall be valid until October 31, 2020. However, if there are still State-mandated limitations on indoor retail after three months, the Mayor and Council may, by ordinance, extend temporary outdoor merchandise

display permits for an additional specified time period.

g. Miscellaneous Provisions.

- 1) There shall be no Borough fees for temporary outdoor merchandise display areas.
- 2) If any provision of this Section is violated, the Zoning Officer shall have the power to rescind the temporary outdoor merchandise display permit.

**Section 3.** If any article, section, sub-section, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 4.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Frenchtown, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Land Use Ordinance of the Borough of Frenchtown are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 5.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Frenchtown for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 6.** This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

**ATTEST:     BOROUGH OF FRENCHTOWN**

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Brenda S. Shepherd, RMC,  
Borough Clerk

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The Honorable Brad Myhre, Mayor

**RESOLUTIONS**

**Resolution #202080 – A resolution of the Borough of Frenchtown, County of Hunterdon, State of New Jersey, implementing the terms and conditions of an ordinance permitting outside dining and outside retail for a temporary period**

Mayor Myhre noted that the resolution is being done through the Borough's policing power so that outdoor dining can begin before the ordinance is adopted. On motion by Caroline Scutt, seconded Tami Peterson and carried by unanimous favorable roll call vote, the Mayor and Common Council approved Resolution #2020-80 as follows:.

**RESOLUTION #2020-80**

**A RESOLUTION OF THE BOROUGH OF FRENCHTOWN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, IMPLEMENTING THE TERMS AND CONDITIONS OF AN ORDINANCE PERMITTING OUTSIDE DINING AND OUTSIDE RETAIL FOR A TEMPORARY PERIOD**

WHEREAS, the United States of America and the State of New Jersey declared national and state States of Emergency arising from the pandemic known as COVID-19; and

WHEREAS, as a result of these States of Emergency, many businesses, including restaurants and retail businesses have either closed or their activities severely limited; and

WHEREAS, as the States of Emergency are lifted, Governor Philip Murphy issued Executive Order No. 150; the State of New Jersey Department of Health issued Directive 20-014 and the State of New Jersey Alcoholic Beverage Control Commission issued Special Ruling 2020-10 ("State Relaxation Requirements") all relaxing the restrictions on restaurants and retail businesses; and

WHEREAS, on June 15, 2020, the Borough of Frenchtown Common Council introduced Ordinance #852 implementing the State Relaxation Requirements; and

WHEREAS, because the public hearing on Ordinance #852 will not occur until July 1, 2020, the Borough Mayor and Common Council desire to utilize its police power to regulate sidewalks, parking lots and other spaces by implementing Ordinance #852 immediately in order to promote the health, safety and welfare of its residents and to promote the reopening of restaurants and retail business as soon as possible and to encourage economic growth.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF FRENCHTOWN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, Mayor and Common Council as follows:

- 1.The State Relaxation Requirements are incorporated by reference into this Resolution.
- 2.Ordinance #852 is incorporated by reference into this Resolution.
- 3.Any restaurant or retail business desiring to operate during the pendency of the State Relaxation Requirements must obtain the necessary permits described in Ordinance #852 and comply with the terms and conditions of that Ordinance.
- 4.Any restaurant or retail business that fails to follow the State Relaxation Requirements or Ordinance #852 will lose the privilege of operating during the pendency of the State Relaxation Requirements and will be subject to a violation of the Borough Land Use Regulations.
- 5.In the event that Ordinance #852 is not adopted on July 1, 2020, this Resolution shall sunset unless otherwise extended by the Mayor and Common Council on July 1, 2020.
- 6.This Resolution shall take effect immediately.

Borough of Frenchtown

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Brad Myhre, Mayor

Dated: June 15, 2020

ATTEST:

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Brenda S. Shepherd, RMC  
Borough Clerk

**PUBLIC COMMENTS**

The Council approved to open the public comment session. Having no comments, Mayor Myhre closed the public comment session.

**ADJOURNMENT**

Being no further business to come before the Mayor and Council, the meeting was adjourned at 8:25 am on motion by Liz Johnson, seconded by Caroline Scutt and carried by favorable voice vote.

Respectfully submitted,

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Brenda Shepherd, RMC  
Borough Clerk