

TOWNSHIP OF HAINESPORT

ORDINANCE NO. 2020-5

ORDINANCE ESTABLISHING A TEMPORARY PROCESS FOR PERMITTING OUTDOOR DINING

WHEREAS, on March 9, 2020, the Governor issued Executive Order 103, declaring a State of Emergency and Public Health Emergency throughout the State of New Jersey as a result of the COVID-19 coronavirus pandemic; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order 104, limiting the scope of service and hours of operation for restaurants and certain retail establishments to balance the need to allow individuals to access food and other essential materials with the need to limit unnecessary person-to-person contact; and

WHEREAS, on March 21, 2020, the Governor issued Executive Order 107, further limiting the scope of service for restaurants as follows:

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. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be limited to original containers sold from the principal public barroom. The on-premises consumption of alcohol is prohibited. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be sold through customer pick up and/or delivered by licensees in accordance with their existing licenses.

WHEREAS, Executive Order 107 recognized that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combating COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, and ordered further steps to mitigate community spread of COVID-19; and

WHEREAS, on March 21, 2020, the Governor issued Executive Order 108, invalidating any municipal restriction that in any way will or might conflict with any of the provisions of Executive Order 107; and

WHEREAS, on June 1, 2020, the Governor announced New Jersey will enter Stage Two of his Restart and Recovery Plan, “The Road Back: Restoring Economic Health Through Public Health” beginning June 15, 2020; and

WHEREAS, Stage Two includes expansion of the scope of services for restaurants to include outdoor dining beginning on June 15, 2020 with continued adherence to state and federal safeguarding guidelines; and

WHEREAS, restaurants in Hainesport Township may desire to offer outdoor dining as a way to meet those social distancing guidelines; and

WHEREAS, the Township Committee would like to establish a process for licensing outdoor dining during the State of Emergency and Public Health Emergency that is expeditious and efficient, while continuing to protect the public health, safety and welfare of the community; and

WHEREAS, outdoor dining is not currently regulated through Hainesport Township Land Use Code Chapter 104 or any other provision of the Township Code; and

WHEREAS, the Code of the Township of Hainesport, Chapter 47 Section 8, prohibits the consumption of alcohol on any public street, thoroughfare, park, square, parking lot or other outdoor public place or area; and

WHEREAS, the Municipal Land Use Law prohibits interim zoning ordinances except “in cases where the municipality demonstrates on the basis of a written opinion of a qualified health professional that a clear imminent danger to the health of the inhabitants of the municipality exists, and in no case shall the...interim ordinance exceed a six-month term” (NJSA 40:55D-90b); and

WHEREAS, the Governor’s State of Emergency and Public Health Emergency recognize that the spread of COVID-19 presents a clear imminent threat to the health of all residents of the State of New Jersey.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hainesport, County of Burlington, State of New Jersey, as follows:

ARTICLE I. TEMPORARY MODIFICATIONS TO THE TOWNSHIP CODE

Pursuant to N.J.S.A. 40:55D-90 and the New Jersey Restart and Recovery Plans and Guidance, the Township Code of the Township of Hainesport is temporarily modified as follows to allow for a temporary permitting of outdoor dining and a temporary relaxation of the Code prohibition of the public consumption of alcohol. Such modifications shall remain in effect from the effective date of this Ordinance until the earlier of December 31, 2020 or until administratively terminated by the Township Committee by Resolution. The temporary modifications discussed above are as follows:

1. §104-53, entitled "Regulations applicable to all zones" is temporarily modified by the addition of subsection (Q) which shall read as follows:

Q. Temporary Outdoor Restaurant Seating. Restaurant owners and managers may allow for outdoor restaurant seating upon the granting of a Temporary Outdoor Restaurant Seating Permit. Permit applicants shall submit applications for temporary outdoor restaurant seating permits to the Township Zoning Officer. The Township Zoning Officer shall distribute the application to the New Jersey State Police, Fire Official and the Municipal Health Officer for their review, and shall approve, approve with conditions, or disapprove the application within 15 calendar days of its submission. All applications shall comply with all provisions of Chapter 104 and shall meet the following requirements:

1. Permit applications shall include a floor plan or other drawing demonstrating the proposed layout or expansion of outdoor seating areas, the relocation of any tables and seats, and any proposed changes to parking areas. The proposed temporary layout may not result in an expansion in the number of available tables or seats.
 2. If the applicant holds an alcohol retail consumption license, the application must include a valid COVID 19 Expansion Permit. This application for a COVID-19 Expansion Permit, which is necessary in order to allow the existing licensed premises to be expanded to include the proposed outdoor seating area, shall be processed in accordance with state and municipal requirements governing such applications. The Township may waive this requirement if permitted by State executive orders, legislation, or regulation.
2. §47-8, entitled "Consumption in certain places prohibited," and prohibiting the public consumption of alcohol is hereby amended to designate the existing language as paragraph "A" and to add the following language as paragraph "B" to read as follows:

B. The public consumption of alcohol may be allowed on the property of businesses possessing alcohol retail consumption licenses if said license holders have been granted a temporary outdoor seating permit pursuant to §104-53(Q) of the Township Code and if such consumption would not violate the terms of the retail consumption license.

ARTICLE II. REPEALER, SEVERABILITY, AND EFFECTIVE DATE

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect immediately upon proper passage in accordance with the law.

NOTICE OF PUBLIC HEARING

HAINESPORT TOWNSHIP ORDINANCE NO. 2020-5

ORDINANCE ESTABLISHING A TEMPORARY PROCESS FOR PERMITTING OUTDOOR DINING

The Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of Hainesport held on June 9, 2020. It will be further considered for passage after a public hearing at a regular meeting to be held on July 14, 2020 at the Municipal Building, 1401 Marne Highway, Hainesport, New Jersey at 7:00 PM at which time and place any persons desiring to be heard upon the same will be given an opportunity to be heard. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

Dated: June 9, 2020



Paula L. Kosko, RMC, Township Clerk
Township Administrator

	Motion	Second	Yes	No	Abstain	Absent
Gilmore	X		X			
Costa			X			
Schneider		X	X			
Clauss			X			
MacLachlan			X			

NOTICE OF FINAL PASSAGE

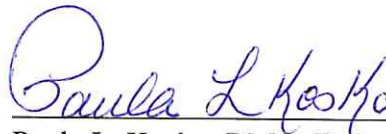
**HAINESPORT TOWNSHIP
ORDINANCE NO. 2020-5**

**ORDINANCE ESTABLISHING A TEMPORARY PROCESS FOR PERMITTING
OUTDOOR DINING**

Notice is hereby given that Ordinance No. 2020-5 as entitled above has been finally adopted on final reading by the governing body of Hainesport Township after a public hearing at a meeting held on July 14, 2020. Said Ordinance shall take effect in accordance with the law.

ATTEST:

Dated: 07.14.2020

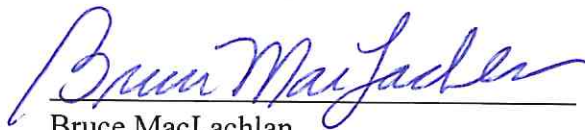


Paula L. Kosko, RMC, Township Clerk
Township Administrator

ACKNOWLEDGMENT OF

APPROVAL BY:

Dated: 07.14.2020



Bruce MacLachlan
Mayor of Hainesport Township

	Motion	Second	Yes	No	Abstain	Absent
Gilmore			X			
Costa	X		X			
Schneider		X	X			
Clauss			X			
MacLachlan			X			

Introduced: June 9, 2020

First Publication: June 17, 2020

Adoption: July 14, 2020

Final Publication: July 17, 2020