

Ordinance # 24 - 2021

City of Lambertville

Hunterdon County, New Jersey

AN ORDINANCE AMENDING CHAPTER 5 GENERAL LICENSING, SECTION 5-8 OUTDOOR SEATING AND ARTICLE II “DEFINTIIONS” AND ARTICLE IV “ZONING” OF THE ZONING ORDINANCE TO ENCOURAGE ECONOMIC DEVELOPMENT AND INVESTMENT IN THE COMMERCIAL ZONES

WHEREAS, on May 5, 2020, the County Commissioners, pursuant to Resolution #2020-296, awarded the City an Economic Development Grant in the amount of \$11,700 for an ordinance and code review aimed at reducing burdens on business and expanding economic development; and

WHEREAS, due to the global pandemic, the project was put on hold in 2020 and restarted in 2021; and

WHEREAS, the City hosted two roundtables with the business community on May 18, 2021 and June 29, 2021 to obtain feedback regarding potential ordinance revisions; and

WHEREAS, in an effort to reduce any concerns as to whether a proposed use within the City’s three commercial districts is a permitted use, the recommendation is to broaden the list of permitted use to identify specific permitted uses; and

WHEREAS, the City should think about diversifying the permitted uses within its commercial districts so that consumers on all levels – residents, daytime employees and visitors – have a number of options to fulfil their needs; and

WHEREAS, parking requirements were also identified as a finite resource within the City and often the reason applications for new businesses end up in front of a Board; and

WHEREAS, the City Council wants to revise the parking requirements within the commercial zones to help promote economic development; and

WHEREAS, the City Council authorized the City Planner to prepare ordinance amendments based on the feedback received at the roundtables and information received from City officials; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Lambertville that the Zoning Ordinance of the City of Lambertville shall be amended as shown with new text underlined and text for deletion in ~~strikeout~~:

SECTON 1. Chapter 5 General Licensing, Section 5-8 Outdoor Seating shall be amended as shown with new text underlined and text for deletion in ~~strikeout~~:

Section 5-8 Outdoor ~~Seating~~ Dining.

§5-8.1 Definitions [Ord. No. 2005-15]

As used in this section:

OUTDOOR DINING

Shall mean outdoor seating, parklet, sidewalk café or streatery as defined herein.

OUTDOOR SEATING

Shall mean a retail food establishment (as defined herein):

- a. Serving food to be consumed by the public at tables located adjacent to the primary building on private property and not within the public right-of-way.
- b. Containing readily movable tables, chairs, and/or planters; and
- c. Unenclosed by fixed walls or ceilings, except for retractable awnings, umbrellas or other non-permanent enclosures which in no way present a safety hazard to or implied pedestrian traffic.

PARKLET

Shall mean a platform or similar level surface extending into the public right-of-way with amenities such as but not limited to tables, chairs, benches, umbrellas, landscaping and other accessory components, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which is not physically or structurally attached to a building, retaining wall or fence.

PERSON

Shall mean any individual, partnership, corporation, association or other entity.

PRIMARY BUILDING

Shall mean the building whose principal façade is adjacent to where the outdoor seating is or is proposed to be located.

PRINCIPAL FAÇADE

Shall mean that portion of the façade of a building which fronts on a public street.

RETAIL FOOD ESTABLISHMENT

Shall mean an establishment actually located within the primary building for which a current retail establishment inspection certificate has been issued by the Board of Health and shall include, by way of example, a restaurant, hotel, coffee shop, tea room, dining room, cafeteria, luncheonette, sandwich shop, delicatessen, and the like.

SIDEWALK

Shall mean the paved surface provided for the exclusive use of pedestrians and situated between and extending from any building to the curb of any street (excluding therefrom any unpaved area).

SIDEWALK CAFÉ

Shall mean a portion of an eating or drinking establishment located on a public sidewalk which functions as an extension of the use of the adjacent private property by an eating or drinking establishment. A sidewalk café is open to the sky except that it may have awnings or umbrellas. No portion of the sidewalk café shall be used for any purpose other than dining, drinking, and the associated circulation therein.

STREATERY

Shall mean a portion of an eating or drinking establishment located within any legal parking zone that is accessed with an ADA accessible ramp with amenities such as but not limited to tables, chairs, benches, umbrellas, landscaping and other accessory components that is surrounded by a protective barrier.

§ 5-8.2 License Required. [Ord. No. 2005-15]

a. Outdoor Seating

a1. No person shall operate outdoor seating within the City without first having obtained an outdoor seating license in accordance with the requirements of this section. ~~The license shall be issued by the Mayor and City Council by resolution and may contain conditions.~~ The license shall not be transferable and shall be for the period of April 15th of the issuing year through April 14th of the following year. The license shall, however, be subject to future amendments to this section or other applicable regulations.

b2. A person who has received approval by resolution of the Planning Board or Board of Adjustment for outdoor seating is exempt from the above licensing requirement. This exemption applies only for the specified number of seats permitted in the approving resolution. A person seeking to use more outdoor seating that approved by the Planning Board or Board of Adjustment shall be required to obtain an outdoor seating license for the additional seats greater than approved by the Board of Jurisdiction or seek an amended approval from the Board of Jurisdiction for the additional seats.

b. Sidewalk Cafe

1. No person shall operate a sidewalk café within the City without first having obtained a sidewalk café license in accordance with the requirements of § 5-8.4.b.

2. The license shall not be transferable and shall be for the period of April 15th through November 15th.

3. The license shall, however, be subject to future amendments to this section or other applicable regulations.

c. Parklet and/or Streatery

1. No person shall operate a parklet or streatery within the City without first having obtained a parklet or streatery license in accordance with the requirements of § 5-8.4.c.

2. No parking space, parking lane or other portion of the public right-of-way shall be encumbered without prior approval by the Police Department. No parklet or streatery shall be installed without prior approval of the Zoning Officer. Use of the right-of-way along a State roadway may require consent, approval, or waiver by the New Jersey Department of Transportation.

3. The approval must be on premises and displayed in an unobstructed location.

4. The license shall not be transferable.

5. The license shall be valid for April 15th through November 15th.

6. The license shall, however, be subject to future amendments to this section or other applicable regulations.

§ 5-8.3 Fee [Ord. No. 2005-15]

The following fees shall be required for the various outdoor dining options:

a. Outdoor Seating

1. The annual fee for an outdoor seating license shall be \$50 per seat payable upon submission of an application for a license.

2. Exempt from the annual license are retail food establishments that have received approval by resolution of the Planning Board or Board of Adjustment for outdoor seating. This exemption applies only for the specified number of seats permitted in the approving resolution.

b. Sidewalk Café

1. The application fee shall be \$100 payable upon submission of an application for sidewalk café license.

2. The annual fee shall be \$50 per seat payable upon submission of an application for a license.

c. Parklet/Streatery

1. The application fee shall be \$100 payable upon submission of an application for a parklet or streatery license.

2. The annual fee shall be \$1,000 per parking space (or for every 20-feet if a parking space is not marked) payable upon submission of an application for a license.

§ 5-8.4 Application. [Ord. No. 2005-15]

a. Outdoor Seating

a₁. Each applicant for an outdoor seating license shall submit and file an application with the City Clerk together with three copies of an Outdoor Seating Plan (as defined below), and the appropriate fee. The application shall set forth:

1. The name and address of the applicant;
2. The name and address of the owner of the primary building (if other than the applicant); and
3. The name and address of the person who has prepared the Outdoor Seating Plan; and shall be accompanied by the written authorization and approval of the owner of the primary building (if other than the applicant).

b₂. The “Outdoor Seating Plan” shall include the following information (and such other additional information, if any as may be deemed necessary and subsequently requested by the City):

1. Identification of the primary building and all properties immediately adjacent to such building, including names and addresses of the adjacent property owners; and
2. The plan shall be drawn to scale but does not require professional seals. The scaled drawing of the proposed design and location of the outdoor seating shall include setbacks, all temporary structures, equipment and apparatus to be used in connection with its operation, including tables, chairs, planters, awnings, lighting and electrical outlets (if any), provisions for storage of such structures, equipment and apparatus, and the location of any fire hydrant, plug or standpipe, utility pole, parking meter, or other permanent fixture between the primary building and the curb, including a clear indication of the presence of the required pedestrian passageway. If the outdoor seating is located on private property adjacent to the sidewalk, the plan shall demonstrate that the pedestrian traffic will in no way be impeded.
3. A statement of the seating capacity of the proposed outdoor seating and of the existing retail food establishment actually operated by the applicant in the primary building. The Zoning Officer in conjunction with the City Clerk shall approve or disapprove modification of the Outdoor Seating Plan within 15 business days following its submission.

b. Sidewalk Café

1. Each applicant for a sidewalk cafe license shall submit and file an application with the City Clerk. The application shall set forth:
 - i. The name and address of the business that will be utilizing the sidewalk cafe;
 - ii. The name and address of the business operator/owner;
 - iii. The name and address of the property owner's name in which the business is located (if different from business operator/owner); and
 - iv. A signed Hold Harmless clause for use of a sidewalk café within the public right-of-way.
2. The application fee, as specified in § 5-3.b.
3. The applicant shall submit three (3) copies of a "Sidewalk Café Plan" and photographs of the storefront and the sidewalk. The "Sidewalk Café Plan" shall include the following information (and other such additional information, if any as may be deemed necessary and subsequently requested by the City):
 - i. All buildings, trees, street furniture, parking meters, utility poles, and other obstructions in front of the property within ten (10) feet of the proposed sidewalk café;
 - ii. The width of the sidewalk café along the building façade;
 - iii. The depth of the sidewalk café measured from the building façade to the outer partition or extent of tables, chairs, signs and accessories;
 - iv. The width of the sidewalk measured from the outer partition or extent of tables, chairs, signs and accessories to the curb;
 - v. The identification of building entrance(s), including the establishment's entrance and any residential entrances;
 - vi. All proposed partitions, tables, chairs, signs and accessories with the number of proposed seats identified;
 - vii. Photographs or renderings of the proposed partitions, as applicable.
4. The applicant shall submit a Certificate of Liability Insurance that identifies the following:
 - i. A copy of the establishment's certificate of liability insurance in a minimum amount of one million (\$1,000,000) dollars per occurrence and two million (\$2,000,000) dollars in aggregate, naming the City of Lambertville and its agents, servants, and employees as additional insured.

- ii. The policy shall be kept in full force and effect during the license period.
 - iii. The policy insurance must be occurrence based coverage.
 - iv. Each Certificate of Insurance required hereunder shall include a thirty (30) day cancellation clause which shall provide notice to the Office of the City Clerk of the City of Lambertville. Any lapse in insurance coverage, for any reason, will result in the immediate suspension of the sidewalk café license.
5. The applicant shall submit an Insurance Certificate naming the City of Lambertville as additional insured and showing coverage for BYOB (Bring Your Own Bottle) and/or serving alcoholic beverages outside your premises.
6. A letter from the property owner (if different from the business operator/owner) authorizing a sidewalk café in front of the building.

c. Parklet or Streatery

1. Each applicant for a sidewalk cafe license shall submit and file an application with the City Clerk. The application shall set forth:
- i. The name and address of the business that will be utilizing the sidewalk cafe;
 - ii. The name and address of the business operator/owner;
 - iii. The name and address of the property owner's name in which the business is located (if different from business operator/owner);
 - iv. The type of application the applicant is applying for (i.e. parklet or streatery);
 - v. The proposed days of the week and hours that the parklet or streatery will be utilized; and
 - iv. A signed Hold Harmless clause for use of a sidewalk café within the public right-of-way.
2. The application fee, as specified in § 5-3.c.
3. The applicant shall submit three (3) copies of a "Parklet or Streatery Plan" which shall include the following information (and other such additional information, if any as may be deemed necessary and subsequently requested by the City):
- i. Length in feet and number of parking spaces (if not demarcated on the street, then a length of twenty (20) feet per parking space shall be used);
 - ii. Depth – the distance from the curb to the outer divider/barrier. Note this dimension will be limited by the parking lane width and required

- buffer/offset (if not demarcated on the street, then a width of seven (7) feet per parking space shall be used);
- iii. The identification of hydrants, parking meters, as applicable, utility poles, street signs and any building entrances within the area;
 - iv. The identification of building entrance(s), including the establishment's entrance and any residential entrances;
 - v. The number and placement of tables, chairs, signs and any other equipment;
 - vi. For parklets, an architectural plan or rendering showing the proposed dimensions and materials of the parklet; and
 - vii. For streateries, an architectural plan, sketch or rendering showing the proposed protective barriers and the location of the temporary ADA curb-ramp(s).
4. The applicant shall submit a Certificate of Liability Insurance that identifies the following:
- i. A copy of the establishment's certificate of liability insurance in a minimum amount of one million (\$1,000,000) dollars per occurrence and two million (\$2,000,000) dollars in aggregate, naming the City of Lambertville and its agents, servants, and employees as additional insured.
 - ii. The policy shall be kept in full force and effect during the license period.
 - iii. The policy insurance must be occurrence based coverage.
 - iv. Each Certificate of Insurance required hereunder shall include a thirty (30) day cancellation clause which shall provide notice to the Office of the City Clerk of the City of Lambertville. Any lapse in insurance coverage, for any reason, will result in the immediate suspension of the sidewalk café license.
5. The applicant shall submit an Insurance Certificate naming the City of Lambertville as additional insured and showing coverage for BYOB (Bring Your Own Bottle) and/or serving alcoholic beverages outside your premises.
6. A letter from the property owner (if different from the business operator/owner) authorizing a parklet or streatory front of the building.

§ 5-8.5 Term of License; Renewals. {Ord. No. 2005-15}

- a. Outdoor Seating: All outdoor seating licenses shall be issued from April 15th and ending April 14th of the following year. Licenses may be renewed annually by filing of an application in accordance with the provisions of this section.

- b. Sidewalk Café: All sidewalk café licenses shall be issued from April 15th and ending November 15th of the same calendar year. Licenses may be renewed annually by filing of an application in accordance with the provisions of this section.
- c. Parlet or Streatery: All parklet and streatery licenses shall be issued from April 15th and ending November 15th of the same calendar year. Licenses may be renewed annually by filing of an application in accordance with the provisions of this section. Parklet or streatery structures must be removed from the parking zones outside of the permitted licenses timeframe.

§ 5-8.6 Rules, Regulations and Specifications. [Ord. No. 2005-15]

a. Provisions applicable to all Outdoor Dining:

- 1. All outdoor dining activity must obtain the proper permits or licenses from the City.
- 2. Tents and Structures require separate approval. Obtaining an outdoor seating, sidewalk café, parklet or streatery license does not grant permission to erect a tent or structure.
- 3. All heating equipment must comply with the City's Fire Code.
- 4. Propane may not be stored in the right-of-way, including sidewalks).
- 5. Appropriate lighting is required at night.
- 6. Tables, chairs, accessories, and barriers must be provided by the licensee.
- 7. Outdoor dining operations can be shut down if found to be a nuisance to neighbors.

b. Outdoor Seating

Outdoor seating is authorized and operating pursuant to this section shall comply with all of the following rules and regulations, and such others as may be adopted by ordinance of the City Council.

- a₁. The outdoor seating shall be operated and maintained in accordance with the Outdoor Seating Plan as finally approved, and by the same person who operates and maintains the abutting retail food establishment.
- b₂. The placement of furniture, apparatus, decoration or appurtenance used in connection with the operation of the outdoor seating in relation to any fire hydrant, plug or standpipe permanent fixture shall be approved by specific written authorization of the Fire Official based upon his review of the Outdoor Seating Plan.

- e3. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the outdoor seating shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building or structure.
- d4. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the outdoor seating shall be located in or project or protrude into the required pedestrian passageway.
- e5. Any table service provided at the outdoor seating shall be provided by persons engaged or employed for that purpose and shall be furnished to seated patrons only. Table service is not required, and retail food establishments that do not provide table service may operate outdoor seating in which patrons carry their food from inside the premises to tables located in the outdoor seating.
- f6. The outdoor area utilized by the outdoor seating shall be kept clear and free of litter and shall be washed as required. Trash receptacles shall be provided as required and approved by the City. If no table service is provided, the trash receptacles shall include those needed for recycling.
- g8. Noise shall be kept at such a level as to comply in all respects with the provisions of applicable ordinances of the City.
- h9. Outdoor seating shall be permitted to operate only within a licensed facility and only from 7:00 a.m. until 10:00 p.m. Monday through Thursday and 7:00 a.m. until 11:00 p.m. Friday through Sunday during the months of license period, inclusive.
- i10. Furniture, apparatus, decorations and appurtenances may be secured in accordance with an Outside Seating Plan which describes the method for securing same that is specifically approved by the Chief of Police and Fire Official, with particular attention being given to issues of ingress and egress and the possibility of the stored material being used to create a public hazard.
- j11. No food may be prepared in the outside seating area or outside the primary building without the approval of the Fire Official.
- k12. The licensee shall comply with all other ordinances of the City.
- l13. Outdoor seating is prohibited on the public sidewalk.

c. Sidewalk Cafe

A sidewalk café is authorized and operating pursuant to this section shall comply with all of the following rules and regulations, and such others as may be adopted by ordinance of the City Council.

1. Sidewalk cafes are permitted so long as a minimum of four (4) of pedestrian walkway is maintained on the sidewalk and provided for the general public subject to applicable ADA requirements, such as providing passing spaces at

- intervals of 200 feet maximum, that are five (5) foot by five (5) foot in dimension or, an intersection of two walking surfaces providing a T-shaped space with a five (5) foot square minimum with arms and base a minimum of three (3) feet wide.
2. Where an operating establishment is located on a corner, all of the sidewalks fronting the establishment may be used for the sidewalk café.
 3. Seating and tables must be up against the wall of the business or as close as possible unless an alternative design is approved by the Zoning Officer.
 4. The sidewalk café area shall be separated from the public portion of the sidewalk, by a partition that is between 30 and 42 inches in height. The partition shall not obstruct, in any way, patrons, pedestrians, or public safety personnel from entering or exiting the establishment. Sidewalk cafés shall be exempt from the partition requirements provided the projection into the sidewalk is less than three (3) feet and the Sidewalk Café Plan has been approved.
 5. At no time shall the sidewalk café patrician, tables, chairs and any other café furniture or accessory block any residential entrance. A clear straight path from door to curb shall be provided and maintained for public safety reasons.
 6. String lights, cafe lights, and similar temporary lights are permitted. While electrical cords running across the sidewalk are discouraged, if necessary, the cord shall be covered and secured to the sidewalk.
 7. Any overhead covering shall be appropriate in style to the facade of the building and a permit application for the use of a tent shall be submitted as may be required. Advertising is not permitted on any overhead covering.
 8. The sidewalk cafe shall be at the same elevation as the sidewalk. Paint, carpet, platforms or any other surface cover or treatment of any kind shall not be permitted in the area of the sidewalk cafe, unless expressly permitted by the governing body.
 9. Outside speakers or other sound reproduction devices shall not be operated or used within a sidewalk cafe for any reason.
 10. Smoking shall not be permitted within a sidewalk café.
 11. The entire sidewalk area in front of the premises, including eighteen (18) inches into the street, must be maintained by sweeping or washing daily or more frequently, as needed, by the license.
 12. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the establishment.

13. No persons, other than those being served and personnel, shall be within the sidewalk cafe area except for those persons passing through the sidewalk cafe to enter or exit the premises. Patrons shall not be served outside of the partition.
14. Holes drilled into the sidewalk for the support of partitions or overhead coverings shall not be permitted.
15. Establishments that do not have table service, shall provide waste receptacle(s) for all used containers, wrappers, bottles, cans and other waste materials. The waste receptacles shall be located within the sidewalk cafe partition area, and shall be removed from the sidewalk each day.

d. Parklet or Streatery

A parklet or streatery is authorized and operating pursuant to this section shall comply with all of the following rules and regulations, and such others as may be adopted by ordinance of the City Council.

1. Provisions applicable to parklets and streateries:

- i. Hours of operation shall be between 8:00 am and 9:00 pm daily in residential (R) zones and between the hours of 8:00 am and 11:00 pm in commercial (C) and nonresidential zones.
- ii. Parklets and streateries shall not be located within 25 feet of a crosswalk, 10 feet of hydrants or in handicap spaces, fire zones or loading zones.
- iii. The parklet and streatery design shall include a protective safety barrier, 36-42 inches in height (excluding plantings), around three sides adjacent to parking spaces and the drive aisle to preserve visibility for motorists and provide protection for patrons.
- iv. The protective safety barrier may be water-filled barriers, concrete barriers, heavy planters, self-built planters weighted with sand bags, or objects of similar size and weight, to visible separate seating from the travel lane and parking areas. These barriers must be at-least 18" wide at the base and at least 36" high. Barriers may not penetrate the surface of the public way.
- v. The protective safety barriers shall also comply with design standards to be created and provided by the City.
- vi. Place the protective barriers directly adjacent to each other and no more than seven (7) feet from the curb.
- vii. Do not place seating or barriers within eight (8) feet of a crosswalk to provide for safe vehicle turns and avoid crowding.

- viii. Ensure visibility of patrons and protective barriers at night by clearly marking all barriers with yellow high intensity retro-reflective tape or reflectors.
- ix. Shade coverings, such as umbrellas or pop-up canopies, may be included as long as no part of the shade canopy extends into the travel lane or over the sidewalk; the shade covering must be anchored securely against wind; and all coverings are closed or removed overnight. Shade covering shall not contain advertising. Any shade covering shall be appropriate in style to the facade of the building and an application for the use of a tent shall be submitted as may be required.
- x. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the establishment.
- xi. No persons, other than those being served and personnel, shall be within the parklet or streatory area. Patrons shall not be served outside of the protective barrier.
- xii. Holes drilled into the sidewalk and/or roadway for the support of partitions or overhead coverings shall not be permitted.
- xiii. If being used for non-table service use, refuse containers for trash and recycling shall be built into the design or provided and shall be emptied daily by the abutting retail food establishment. The abutting retail food establishment shall be responsible for cleaning in and around the parklet or streatory. The City of Lambertville shall not be responsible for cleaning or maintenance.
- xiv. String lights, cafe lights, and similar temporary lights are permitted. While electrical cords running across the sidewalk are discouraged, if necessary, the cord shall be covered and secured to the sidewalk.
- xv. Outside speakers or other sound reproduction devices shall not be operated or used within a parklet or streatory for any reason.
- xvi. Smoking shall not be permitted within a parklet or streatory.
- xvii. The City reserves the right to require the removal or temporary relocation of any parklet or streatory within 14 days of written notice to the licensee for purposes of street repairs or other municipal work in or around the location of the parklet or streatory. The City further reserves the right to remove or have removed or relocated any parklet or streatory, upon order of the Police Lieutenant or Office of Emergency Management, in the case of an emergency or imminent hazard, or for reasons of public safety.

2. Provisions applicable to a parklet only.

- i. The parklet shall consist of a platform design to be level with the top of the curb line and the adjacent sidewalk.
 - ii. The platform shall be designed in such a way as to not impede rainwater sheet-flow of curbside drainage.
 - iii. The platform shall not have more than a two (2) inch gap between planks of the platform.
 - iv. The platform shall not obstruct access to or ventilation of utility covers.
 - v. The parklet platform shall also be anchored in such a way as to prevent floatation displacement.
 - vi. One (1) permanent sign identifying the abutting retail food establishment sponsor(s) of the parklet may be installed or painted on the protective safety barrier. The sign shall not exceed six (6) square feet in size unless incorporated as an integral part of the design and approved by the zoning officer.
 - vii. Lighting, if any, incorporated into the design of the parklet shall be low voltage, low-lumen and indirect with screening to prevent light shed onto adjacent properties and the vehicular travel lane. Any overhead lighting shall be turned off when the parklet is not in use. An exception may be made for security lighting at floor and bench height, such an exception may be approved by the Zoning Officer on a case by case basis.
 - vii. Upon expiration or termination of the license, the licensee, at his/her/their own expense, shall remove the parklet platform and any accessory or appurtenances associated with it from the public right-of-way and shall restore the right-of-way as nearly as practicable to a condition consistent with the surrounding pavement. If the licensee fails to remove the parklet in full, the City may remove such improvements and make any repairs as may be necessary to restore the public right-of-way, at the sole cost and expense of the property owner; the cost of such removal, repair and/or replacement shall be a municipal lien against the licensee.
3. Provisions applicable to a streatery only.
- i. Temporary ADA curb-ramps must be provided. For streateries up to two parking spaces or forty (40) feet in length, one (1) ADA curb-ramp shall be required centrally located within the streatery. For streateries more than two parking spaces or greater than forty (40) feet in length, two (2) ADA curb-ramps shall be required.
 - ii. One sign, up to six (6) square feet in size, shall be included for a streatery up to 280 square feet in size (i.e. seven (7) feet by forty (40) feet in size or two parking spaces). For streateries larger than 280 square feet, two (2)

signs, up to six (6) square feet in size, shall be located at either end of the streatery. Signs shall be positioned on the pavement within the boundaries of the streatery and not on the adjacent sidewalk. Signs shall:

a. The sign(s) shall clearly state whether the streatery is for table service only or open to the public, whichever the case may be; and

b. The sign(s) may identify the licensee of the streatery.

iii. Upon expiration or termination of the license, the licensee, at his/her/their own expense, shall remove the streatery and any accessory or appurtenances associated with it from the public right-of-way and shall restore the right-of-way as nearly as practicable to a condition consistent with the surrounding pavement. If the licensee fails to remove the streatery in full, the City may remove such improvements and make any repairs as may be necessary to restore the public right-of-way, at the sole cost and expense of the property owner; the cost of such removal, repair and/or replacement shall be a municipal lien against the licensee.

§ 5-8.7 Alcoholic Beverages. [Ord. No. 2005-15]

The outside area upon which outside seating has been authorized to operate may permit the consumption of alcoholic beverages as follows:

a. A retail food establishment that does not possess a liquor license may permit its patrons to consume only beer or wine, which is brought to the premises, by its patrons.

b. A retail food establishment that possesses a plenary retail consumption license must amend their liquor license to include the outdoor seating dining area in order to permit the consumption of alcoholic beverages by its patrons.

c. Sidewalk cafes, parklets and streateries that permit patrons to bring their own alcohol shall adhere to all laws governing B.Y.O.B. as set forth in N.J.S.A. Title 33, N.J.A.C. 13:2.

d. Alcoholic beverages, when permitted under these requirements, shall not be served or consumed on any sidewalk or other public area which is outside the partitioned area of the sidewalk café, parklet, streatery or beyond the tables and chairs where no partition exists.

e. No alcoholic beverages, where permitted, shall be served in a sidewalk café, parklet or strEATERY before 11:00 am or when restricted by State or Local Alcoholic Beverage Control (ABC) laws.

§ 5-8.8 Notice of Violation; Failure to Comply. [Ord. No. 2005-15]

Upon a determination by the Zoning Officer in conjunction with the City Clerk that a license has violated one or more of such provisions, the Zoning Officer shall give written notice to the licensee to correct such violation within 24 hours of the receipt of such notice by the licensee. In the event that the licensee fails or refuses to correct such violation within such period, the licensee's outside seating license thereupon will be revoked.

§ 5-8.9 Appeals. [Ord. No. 2005-15]

Any person aggrieved by any action of the Zoning Officer, in the denial or revocation of an existing outside seating license, shall have the right to appeal to the Mayor and City Council. The appeal shall be taken by filing with the City Clerk, within 30 days after the notice of the action complained of has been served personally upon the licensee, or mailed, postage prepared, to the licensee at the address given by the licensee in making application under subsection 5-8.4, a written statement setting forth fully the grounds for appeal. The City Clerk shall set a time and place of hearing for the appeal, at which time the Mayor and City Council shall conduct a hearing and affirm, modify or reverse the action appealed from.

§ 5-8.10 Penalties {Ord. No. 2005-15]

Any person convicted of a violation of any of the provisions of this section shall be subject to a fine of at least \$200 and not exceeding \$500 for each and every offense for each day in which the violation has not been abated. In addition to the penalty the person shall be responsible for the cost of conviction.

SECTION 2. Article II "Definitions", Section Z-201 "Definitions" of the Zoning Ordinance is hereby amended as follows, with new definitions inserted alphabetically:

ARTISAN FOOD AND BEVERAGE PRODUCTION means a facility with on-site production of food or beverage products, involving small batch processing. Typical uses include, but are not limited to: coffee roasting, ice cream, baker, candy, and other foodstuffs; or alcoholic beverage manufacturing. This shall include on-site sales and consumption (i.e. tasting room).

ACTION HOUSE means a building area, or areas within a building, used for the public sale of goods, wares, merchandise, or equipment to the highest bidder.

BAKERY means an establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service. A bakery shall be considered a general retail use.

BEAUTY SHOP means any establishment where cosmetology services are provided including hair care, nail care and skin care on a regular basis for compensation.

CHILD CARE CENTER means any facility which is maintained for the care, development or supervision of six or more children under six years of age who attend for less than 24 hours per day and which is licensed by the New Jersey Department of Human Services.

COFFEE SHOP means a type of restaurant that sells coffee, tea and other beverages. A coffee shop may also serve baked goods and dessert-type fare. No goods are sold to customers from a drive-up or drive-through window.

DELICATESSEN means a store selling cold cuts, cheeses and a variety of salads, as well as selection of prepared foods and other related items sold in varying quantities for consumption primarily off-premises. However, there may be on-site consumption of food as an accessory use. A delicatessen may also be referred to as a sandwich shop.

DIGITAL MAKERSPACE means a facility for digital design and fabrication utilizing hardware and software tools. There shall be no emission of any smoke, fumes, gas, dust, odors or any other atmospheric pollutant, which will disseminate beyond the boundaries of the lot occupied by a digital makerspace.

ENTERTAINMENT USES means any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, theatres, bike and boat rentals, sporting goods, skating rinks, arcades, bowling alleys, billiard halls, movie theaters, escape rooms and similar entertainment uses.

FOOD PANTRY means a building or location where an organization or group sorts and packages donated foodstuffs for distribution directly to people in need.

FUNERAL HOME means a building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this code, includes a funeral chapel.

GOURMET FOOD SHOP means a store selling specialty foods (such as a chocolate store, candy shop, ice cream parlor, fishmonger, and the like) where prepared food is sold in varying quantities for consumption primarily off-premises, but which may also provide for on-site consumption of food as an accessory use.

HEADSTONE STORE means a store that sells a headstone, grave marker or tombstone, usually inscribed with a dead person's name. This term does not include an establishment that creates or manufactures headstones.

HEALTH CLUB means an establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports, yoga, and Pilates, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

HOME FURNISHINGS STORE means an establishment engaged in the retail sale of products used for decorating the home, such as furniture, wall and floor coverings, curtains and draperies, lighting fixtures, electrical appliances, and household decorative items.

HOME IMPROVEMENT CENTER means an establishment providing the sale or rental of building supplies, construction equipment, or home decorating fixtures and accessories. This term includes a lumber yard, masonry supply stores or a contractors'

building supply business and may include outdoor storage or tool and equipment sales or rental. This term also includes an establishment devoted exclusively to the retail sale of paint, wallpaper, or hardware and plumbing or electric supply services. This term does not include an establishment or activities classified under vehicle/equipment sales and services, including vehicle towing services.

INCUBATOR SPACE means an office space-type environment that is flexibly designed that accommodates administrative, research and development and/or limited manufacturing activities. The space can be shared by multiple entities that share services. There shall be no emission of any smoke, fumes, gas, dust, odors or any other atmospheric pollutant, which will disseminate beyond the boundaries of the lot occupied by an incubator space. There shall be no vibration that is discernible to the human sense of feeling beyond the boundaries of the subject site.

INSTRUCTIONAL USE means uses for the teaching and practice of dance, drama, art, language, martial arts, music, aerobics, sports, fitness, photography and the like. Such activities may be conducted either partially or entirely within the confines of a building or partially to entirely outdoors. These uses may, from time to time, hold group events, such as birthday parties.

MAKER STUDIO means a studio of a carver, candle maker, painter, sculptor, potter, weaver, jeweler, photographer, 3D printer or the like.

OFFICE means a room or group of rooms used for the conducting of affairs of a business, profession, industry or government and generally furnished with desks, tables, files and communication equipment.

OFFICE, MEDICAL means the office of a licensed medical or health care practitioner providing health care services to a person for the purpose of maintaining or restoring a person's physical or mental health. The term "licensed" is defined in the New Jersey Administrative Code.

OFFICE, PROFESSIONAL means the office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architecture, engineering, planning, law, interior design, accounting, insurance, and real estate.

PHARMACY means a place where drugs and medicines are prepared and dispensed.

POSTAL AND SHIPPING CENTERS means a facility that handles packaging and shipping. The facility may also provide small business support including but not limited to full service copy and printing, notary, faxing, mailbox rental, digital services, office supplies and certified shredding.

RESTAURANT, FAST FOOD means an eating establishment primarily serving wrapped individual servings of food or refreshments at a counter in bags or on trays for consumption on or off premises, with or without table seating and with or without a drive-up or drive-through window. A fast food restaurant is distinguished and different from a

coffee shop, restaurant, delicatessen and gourmet food shop, which are defined in the ordinance a public eating facility where patrons purchase food while within the physical premises of the restaurant or from a drive-thru window, which is obtained by self-service or from an employee of the establishment over a counter, for consumption either within the establishment or away from the premises.

TASTING ROOM means a facility that offers samples of beer, spirits or wine as well as sales of said product. However, there is no on-site production.

SECTION 3. Article IV “Zoning”, Section Z-406.1 “Permitted Uses” within the Central Business District (CBD) of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-406.1 Permitted Uses.

The following uses shall be permitted in the CBD Zone:

- A. Single family semi-detached residential.
- B. Townhouse.
- C. Age-restricted residential apartments.
- D. Antique Store.
- E. Appliance, electronic sales and service shops, video sales and rentals, recorded music and computer software sales.
- F. Artisan food and beverage production.
- G. Artist gallery.
- H. Artist or maker studio.
- I. Bakery.
- J. Bank, savings and loan.
- K. Barber shop, beauty salon or hair salon.
- L. Beauty store.
- M. Bed and breakfast.
- N. Bicycle sales or repairs.
- O. Book store.
- P. Clothing and clothing accessory stores, except stores primarily devoted to the sale of T-shirts.

- Q. Club, social or fraternal club.
- R. Coffee shop.
- S. Consignment shop.
- T. Dance school or studio.
- U. Delicatessen.
- V. Digital makerspace.
- W. Dry cleaning and tailoring
- X. Entertainment Uses.
- Y. Funeral home.
- Z. Gallery frame shop.
- AA. Garden or floral shop.
- BB. Gourmet food shop.
- CC. Grocery, convenience or dry goods store.
- DD. Gift shop or novelty store.
- EE. Government uses.
- FF. Home furnishings store.
- GG. Home improvement center.
- HH. Hotels, motels and inns.
- II. Incubator space.
- JJ. Instructional use.
- KK. Jewelry store.
- LL. Laundromat.
- MM. Light manufacturing.
- NN. Lighting, carpet and furniture stores.
- OO. Liquor store.
- PP. Music store.
- QQ. Non-conforming uses, buildings and lots pursuant to § Z-508.

- RR. Office.
- SS. Office, medical.
- TT. Office, professional.
- UU. Parks, playgrounds and conservation.
- VV. Pharmacy or drug store.
- WW. Public assembly space.
- XX. Public utilities except maintenance yards, power generation or similar industrial functions.
- YY. Religious uses, including houses of worship, parish houses, rectory, parochial school, convent or similar such uses.
- ZZ. Restaurants and luncheonettes excepting fast-food restaurants and drive-through facilities.
- AAA. School district uses.
- BBB. Tasting room.
- CCC. Veterinary clinic.
- DDD. Waterfront commercial use shall be permitted as an optional development overlay provided the tract is located between the Delaware River and Delaware and Raritan Canal, and between the extensions of Delaware Street and Swan Street, excluding any part of Holcombe Island.
- EEE. IO-2 Inclusionary Overlay Zone District
[Added 4-18-2019 by Ord. No. 05-2019]
 - 1. Purpose and Area of Application: to address its affordable housing unmet need obligation, the City through the implementation of an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to very-low-, low-, and moderate-income households on Block 1022, Lot 8. This subsection establishes the Inclusionary Overlay Zone 2 – the IO-2 District - and permits the adaptive reuse of the existing nonresidential building into non-age-restricted (family) apartments on the property identified above provided that such housing complies with a required inclusionary set-aside requirement for affordable housing and with the requirements of this subsection.
 - 2. Special Rules.
 - a. In any inclusionary development permitted by this subsection, in the case of affordable rental units, at least 15% of the residential units must

be affordable to very-low-, low-, and moderate-income households and, in the case of owner-occupied affordable units, at least 20% of the residential units must be affordable to very-low-, low-, and moderate-income households.

- b. Where this subsection contradicts § LDR-1200.6 of the City's Affordable Housing Ordinance, the effects and requirements of this subsection shall supersede the requirements of § LDR-1200.6.
3. Permitted Uses.
 - a. Apartment Dwellings.
 4. Restriction on Conditional Uses. No development utilizing the provisions of the IO-2 Inclusionary Overlay District shall include any conditional use permitted in § Z-406.3.
 5. Accessory Uses Permitted.
 - a. Common recreational facilities, as specifically approved by the Planning Board within the specified open space in order to satisfy the needs of the residential population within the development, including but not limited to tennis courts, tot lots, picnic tables and recreational paths.
 - b. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses.
 - c. Fences and walls in accordance with the design provisions specified in § Z-507.
 - d. Patios and balconies.
 - e. Off-street parking in accordance with § Z-406.1P7 and Z-509.
 - f. Signs in accordance with § Z-515.
 - g. Office space within an apartment building to be used for the operation and management of the affordable rental apartments.
 - h. Lighting in accordance with § Z-511.
 - i. Stormwater management and other utilities.
 - j. Conservation areas, recreation, open space, and public purpose uses.
 - k. Temporary construction trailers and one sign not exceeding 32 square feet in area, either attached to the trailer or freestanding, which advertises the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and ending with the issuance

of a certificate of occupancy or one year, whichever time period is less. The temporary construction trailer(s) and temporary sign shall be located on the site where the construction is taking place and shall be set back at least 30 feet from all lot lines and from the right-of-way lines of all existing and proposed streets. There shall be at least one operating telephone within the trailer.

- l. Other accessory uses customarily incidental to a principal use.
6. Maximum Density. The maximum density of housing units shall be 10 units per acre.
7. Off-Street Parking.
 - a. Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21.
 - b. See § Z-509 for additional standards.
8. Affordable Housing Standards.
 - a. A developer's agreement is required to establish low/moderate apportionment, very-low-income requirement per N.J.S.A. 52:27D-329.1, bedroom distribution, unit size, etc.
 - b. At least 13% of the units shall be affordable to very-low-income households, 37% of the units shall be affordable to low-income households, and 50% may be affordable to moderate-income households.
 - c. The affordable units shall be developed in accordance with COAH's regulations at N.J.A.C. 5:93^[1] and the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which govern the administration and affordability controls of affordable units in New Jersey, with one exception. The exception is for 13% very-low-income housing at 30% of the regional median income instead of the UHAC requirement of 10% very-low-income housing at 35% of the regional median income.
 - d. Affordable Housing Standards. In addition to addressing the requirements of COAH and noted above, the affordable units shall be developed in accordance with the following:

^[1] *Editor's Note: In accordance with N.J.S.A. 52:14B – 5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.*

- (1) The affordable units cannot be age-restricted units;

(2) The bedroom distribution requirements pursuant to N.J.A.C. 5:93-7.3[2] and N.J.A.C. 5:80-26.3(b).

[2] Editor's Note: In accordance with N.J.S.A. 52:14B – 5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

(3) The unit distribution requirements pursuant to N.J.A.C. 5:80-26.3.

(4) The length of controls requirement and deed restrictions pursuant to N.J.A.C. 5:80-26.11.

(5) The accessibility and adaptability requirements pursuant to N.J.A.C. 5:97-3.14.[3]

[3] Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

SECTION 4. Article IV “Zoning”, Section Z-406.3 “Conditional Uses” within the Central Business District (CBD) of the Zoning Ordinance is hereby amended to read as follows (new text is underlined thus; deleted text is ~~strikeout~~):

§ Z-406.3 Conditional Uses.

The following conditional uses may be permitted in the Central Business District:

- A. ~~Conversion of existing buildings for a~~ Apartment use conforming to the criteria of §406.8 and §517.
- B. Structured parking conforming to the criteria of §406.9 and §517.
- C. Taverns and bars conforming to the criteria of §406.10 and §517.
- D. Conversion of second floor and higher floors to non-residential use provided that the gross floor area of the building shall be not less than 1,800 square feet and the criteria of §517 are met.
- E. Cannabis retailer conforming to the criteria of §406.13 and §517.

[Added 7/22/21, Ordinance # 16-2021].

SECTION 5. Article IV “Zoning”, Section Z-406.7 “Off-Street Parking and Loading Requirements” within the Central Business District (CBD) of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-406.7 Off Street Parking and Loading Requirements.

- A. Residential Uses. Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21.

- B. Non-residential Uses. New non-residential use shall be required to provide off-street parking spaces in accordance with the Schedule of Required Off-Street Parking Facilities, § Z-406.7C, when the following occurs:
1. The proposed use involves the construction of new buildings or additions exceeding one-third of the gross square footage of the existing building.
 2. Public assembly spaces exceeding 75 seats.
 3. The change of use results in a net increase of fifteen (15) or more parking spaces.
- C. Schedule of Required Off-Street Parking Facilities. The following parking schedule shall be used to calculate the required number of parking spaces per use, as necessary. Unless otherwise noted, the calculation shall be based upon the gross square footage of the floor area of the use. Where the calculation results in a fraction of a space, the required number of parking spaces shall be rounded to the next highest whole number. Where more than one permitted use is allowed within the district, the requirement for parking spaces shall be the sum of the individual uses computed separately.
1. Retail and personal sales and service: one space per 300 square feet.
 2. General and professional offices, excepting medical and dental offices: one space per 300 square feet.
 3. Medical and dental offices: one space per 250 square feet.
 4. Restaurants and luncheonettes: one space per three seats.
 5. Taverns and bars: one space per two seats. Where individual seats are not provided, each 24 inches of counter shall constitute one seat.
 6. Funeral homes shall provide at least six spaces for each viewing room.
 7. Hotels, motels and inns: one space per room.
 8. Artist galleries and antique stores, excepting cooperative spaces: one space per 600 square feet.
 9. Cooperatives: three spaces per exhibit area.
 10. Religious use, excepting residential: one space for each five seats. Where individual seats are not provided, each 21 inches of bench or pew shall be considered one seat.
 11. Public Assembly: one space for each five seats.
 12. Theatre: one space for each three seats.

13. Commercial recreation, indoor: one space for each 400 square feet, excepting bowling alleys which shall provide four spaces per lane.
14. Commercial recreation, outdoor: Sufficient space shall be provided to prevent parking in fire lanes or parking aisles as reasonably determined by the approving authority.
15. Other uses not specifically identified: one space per 300 square feet.

D. Required Loading.

1. Each business or service establishment shall have access to a loading and unloading space within 300 feet of the premises. An adequate guarantee shall be provided that establishes a right to the loading and unloading use, unless such space is provided by a public entity.
2. Business or service establishments occupying a lot of 15,000 square feet or larger shall provide off-street loading and unloading space on the premises. Each off-street loading area shall be a minimum of 12 feet by 35 feet. The loading area shall be so arranged to avoid impairment to the circulation system of parking spaces, parking aisles, points of ingress and egress, and streets.

E. The design standards of § 509 shall apply to all off-street parking and loading areas.

F. Location of Parking. Required off-street parking may be supplied off-tract provided the following criteria are met:

1. The off-tract parking shall not provide required parking for any other use.
2. An adequate guaranty that establishes a right to the use of the off-tract parking shall be provided.
3. The off-tract parking is located within the following distances from the premises in question:
 - a. Senior citizen residential use: 150 feet.
 - b. Other residential use: 300 feet.
 - c. Non-residential use: 600 feet.

SECTION 6. Article IV “Zoning”, Section Z-406.8 “Conditions for Conversion to Apartment Use” within the Central Business District (CBD) of the Zoning Ordinance shall be amended as shown with new text underlined and text for deletion in ~~strikeout~~:

§ Z-406.8 Conditions for ~~Conversion to~~ Apartment Use.

- A. No apartment shall be permitted within a basement or a cellar as defined in Article II, § 201. An apartment(s) shall be permitted on the first floor of a building; however, the habitable room area, as defined in § 201, for said unit(s) shall not occupy more than 50% of the first floor area as measured from the rear wall of the building, exclusive of common hallways providing access to said unit(s). No portion of the habitable room area shall be permitted within the front areas of the first floor as measured from the front wall of the building, that being the wall facing a public street within the CBD Zone. The minimum square footage standards contained in § 406.8 paragraph E shall continue to apply to any apartment within the CBD Zone.
- B. Public notice shall be given in the same manner as required for applications for development.
- C. Access to each apartment shall be by means of an entrance to the exterior of the building or be common hallway.
- D. Each apartment shall have a minimum of two means of ~~ingress and egress~~ and one means of ingress.
- E. No apartment shall be less than the square footage minimum required as follows:
 - 1. Efficiency: 450 square feet.
 - 2. One Bedroom: 600 square feet.
 - 3. Two Bedroom: 800 square feet.
 - 4. Three Bedrooms or More: 900 square feet plus 100 square feet additional for each bedroom in excess of three.

SECTION 7. Article IV “Zoning”, Section Z-407.1 “Permitted Uses” within the C-2 Service Commercial District of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-407.1 Permitted Uses.

In the C-2 Service Commercial Zone, no lot shall be used and not structure shall be erected, altered or occupied for any purpose except the following:

- A. Appliance, electronics sales and service shops, video sales and rentals, recorded music and computer software sales.
- B. Artisan food and beverage production.
- C. Artist galleries and antique stores.
- D. Artist or maker studio.
- E. Auction house.

- F. Automobile sales, both new and used, and auto body shop except auto wrecking yards and junk yards.
- G. Automobile parts and accessories, including tire and battery sales, but not to include tire recapping or recycling.
- H. Bakery.
- I. Bank, savings and loan.
- J. Clothing and clothing accessory stores, excepting stores primarily devoted to the sale of T-shirts.
- K. Delicatessen.
- L. Digital makerspace.
- M. Dry cleaning and tailoring services.
- N. Entertainment Uses.
- O. Food pantry.
- P. Funeral home.
- Q. Gourmet food shop.
- R. Government uses.
- S. Grocery, convenience, dry goods stores, card and flower shops.
- T. Headstone store.
- U. Home Improvement Centers.
- V. Incubator space.
- W. Instructional use.
- X. Liquor store.
- Y. Non-conforming uses, buildings and lots pursuant to § Z-508.
- Z. Office.
- AA. Office, Professional.
- BB. Office, Medical.
- CC. Pet washing, self-service and full-service, and pet grooming.
- DD. Postal and shipping center.

- EE. Pharmacy or drug store.
- FF. Public assembly space.
- GG. Restaurants and coffee shops, excepting fast-food restaurants and drive-thru facilities.
- HH. Shoe cobbler.
- II. Tasting room.
- JJ. Travel agency.

SECTION 8. Article IV “Zoning”, Section Z-407.3 “Conditional Uses” within the C-2 Commercial District of the Zoning Ordinance shall be amended as shown with new text underlined and text for deletion in ~~strikeout~~:

§ Z-407.3 Conditional Use.

The following conditional uses may be permitted when authorized by the Planning Board:

A. Service Stations.

Service stations in accordance with the following criteria:

1. No service station shall have an entrance or exit for vehicles within 200 feet along the same side of a street as any school, public playground, church, hospital, public building or institution, except where such property is in another block or on another street which the lot in question does not abut.
2. No service stations shall be permitted where any oil draining pit or visible appliance for any purpose (other than filling pumps and air pumps) is located within 20 feet of any street line or within 50 feet of any residential district, unless such appliance or pit is within a building. Gasoline pumps and air pumps within the required front yard space shall be no closer than 15 feet to the street line.
3. No junked motor vehicle or part thereof, scrap metal, or motor vehicles incapable of normal operation upon the highways shall be permitted on the premises of any service station. It shall be deemed prima facie evidence of violation of this Ordinance if more than three motor vehicles incapable of operation are located at any time upon any premises not within a closed and roofed building and if any scrap metal or other junk is stored upon and premises not within a closed and roofed building excepting, however, that a number not exceeding six motor vehicles may be located upon any service station premises outside of a closed or roofed building for a period of time not to

exceed 48 hours and providing that said motor vehicles are awaiting repair by the owners thereof.

4. Any service station shall be located within the C-2 Service Commercial District.

B. Cannabis Retailer.

Cannabis Retailers in accordance with the following criteria:

1. The regulations of this Section are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and adopted by the State of New Jersey or its instrumentalities. If any provision of this Section is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.
2. A cannabis retailer shall be located at least five hundred (500) feet from a school or comply with a greater distance buffer from a school as may be required by State or Federal Law.
3. A cannabis retailer shall not be located within six hundred (600) feet to any other Class 5 Cannabis Retailer.
4. A cannabis retailer may operate between the hours of 9:00 A.M. and 7:00 P.M. Monday through Saturday and between the hours of 10:00 A.M. and 5:00 P.M. on Sunday.
5. No more than six (6) ounces of cannabis or cannabis product may be sold to a specific customer at a given time.
6. Use or consumption of cannabis or cannabis products in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
7. All Cannabis Retailers shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc.
8. Any Cannabis Retailer shall only have one (1) primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.
9. Drive-through facilities are not permitted.
10. All cannabis retailers shall be secured in accordance with State of

New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite within the facility at all times during operating hours.

11. Police must have full access to the video surveillance system.
12. Video surveillance shall be retained a minimum of seven (7) days or pursuant to State and Federal law, whichever is greater.
13. Cannabis Retailers' interiors shall provide a secure location for storage of products with minimum products in any customer service area.
14. People shall not be permitted to congregate outside of a Cannabis Retailer, loiter or wait in line to access the Cannabis Retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.
15. Signs shall be limited to location identification/name of business. Signs shall not promote consumption of any cannabis product. Signage design shall not include artistic or photographic renderings of cannabis plants or paraphernalia. Neon signs shall be prohibited.

C. Apartments.

1. No apartment shall be permitted within a basement or a cellar as defined in Article II, § 201. An apartment(s) shall be permitted on the first floor of a building; however, the habitable room area, as defined in § 201, for said unit(s) shall not occupy more than 50% of the first floor area as measured from the rear wall of the building, exclusive of common hallways providing access to said unit(s). No portion of the habitable room area shall be permitted within the front areas of the first floor as measured from the front wall of the building, that being the wall facing a public street within the C-2 Zone. The minimum square footage standards contained in § 407.3.C.5 shall continue to apply to any apartment within the C-2 Zone.
2. Public notice shall be given in the same manner as required for applications for development.
3. Access to each apartment shall be by means of an entrance to the exterior of the building or be common hallway.
4. Each apartment shall have a minimum of two means of egress and one means of ingress.
5. No apartment shall be less than the square footage minimum required as follows:

- a. Efficiency: 450 square feet.
- b. One Bedroom: 600 square feet.
- c. Two Bedroom: 800 square feet.
- d. Three Bedrooms or More: 900 square feet plus 100 square feet additional for each bedroom in excess of three.

SECTION 9. Article IV “Zoning”, Section Z-407.6 “Minimum Off-Street Parking” within the C-2 Service Commercial District of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-407.6 Minimum Off Street Parking.

- A. Residential Uses. Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21.
- B. Non-residential Uses. New non-residential use shall be required to provide off-street parking spaces in accordance with the Schedule of Required Off-Street Parking Facilities, § Z-407.6C, when the following occurs:
 1. The proposed use involves the construction of new buildings or additions exceeding one-third of the gross square footage of the existing building.
 2. Public assembly spaces exceeding 75 seats.
 3. The change of use results in a net increase of fifteen (15) or more parking spaces.
- C. Schedule of Required Off-Street Parking Facilities. The following parking schedule shall be used to calculate the required number of parking spaces per use, as necessary. Unless otherwise noted, the calculation shall be based upon the gross square footage of the floor area of the use. Where the calculation results in a fraction of a space, the required number off parking spaces shall be rounded to the next highest whole number. Where more than one permitted use is allowed within the district, the requirement for parking spaces shall be the sum of the individual uses computed separately.
 1. Funeral homes shall provide at least six spaces for each viewing room.
 2. Retail and personal sales and service: one space per 300 square feet.
 3. Professional building shall provide two spaces for each room in the building but in no case less than five spaces.
 4. Restaurants and luncheonettes: one space per three seats.

5. Artist galleries and antique stores, excepting cooperative spaces: one space per 600 square feet.
6. Cooperatives: three spaces per exhibit area.
7. Public Assembly: one space for each five seats.
8. Television and radio appliance stores, tire sales, automobile parts and accessory stores and home improvement centers shall provide one space for each 80 square feet of gross floor area or fraction thereof.
9. Automobile sales shall provide one space for each 800 square feet of office and retail gross floor area plus one space for each 2,000 square feet devoted to storage facilities.
10. Offices not located within a professional building: one space per 300 square feet.
11. Government buildings shall provide one space for each vehicle owned and/or operated by the use plus one space for each 3,000 square feet or gross floor area used for warehousing, shipping or receiving plus one space for every 700 square feet of gross floor area used for other purposes.
12. Cannabis retailer: one space for each 300 square feet.

D. The design standards of § 509 shall apply to all off-street parking.

E. Location of Parking. Required off-street parking may be supplied off-tract provided the following criteria are met:

1. The off-tract parking shall not provide required parking for any other use.
2. An adequate guaranty that establishes a right to the use of the off-tract parking shall be provided.
3. The off-tract parking is located within the following distances from the premises in question:
 - a. Senior citizen residential use: 150 feet.
 - b. Other residential use: 300 feet.
 - c. Non-residential use: 600 feet.

SECTION 10. Article IV “Zoning”, Section Z-408.1 “Principal Permitted Uses on the Land and In Buildings” within the C-3 General Commercial District of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-408.1 Principal Permitted Uses on the Land and In Buildings.

- A. Artisan food and beverage production.
- B. Artist galleries and antique stores.
- C. Artist or maker studio.
- D. Auction house.
- E. Bakery.
- F. Barber shop, beauty salon or hair salon.
- G. Coffee shop.
- H. Dance school or studio.
- I. Delicatessen.
- J. Digital makerspace.
- K. Gourmet food shop.
- L. Government uses.
- M. Grocery, convenience, dry goods stores, card and flower shops.
- N. Health club.
- O. Home Improvement Centers.
- P. Incubator space.
- Q. Instructional use.
- R. Light manufacturing.
- S. Music stores.
- T. Non-conforming uses, buildings and lots pursuant to § Z-508.
- U. Office.
- V. Office, Professional.
- W. Office, Medical.
- X. Parks, playgrounds and conservation.
- Y. Pet Washington, self-service and full-service, and pet grooming.
- Z. Restaurants and coffee shops, excepting fast-food restaurants and drive-thru facilities.

- AA. Tattoo studio or permanent makeup studio.
- BB. Warehousing or storage of goods provided such activities and inventories are conducted entirely within an enclosed structure.

SECTION 11. Article IV “Zoning”, Section Z-408.6 “Minimum Off-Street Parking” within the C-3 General Commercial District of the Zoning Ordinance is hereby repealed and replaced as follows:

§ Z-408.6 Minimum Off Street Parking Requirements.

- A. Non-residential Uses. New non-residential use shall be required to provide off-street parking spaces in accordance with the Schedule of Required Off-Street Parking Facilities, § Z-408.6B, when the following occurs:
 - 1. The proposed use involves the construction of new buildings or additions exceeding one-third of the gross square footage of the existing building
 - 2. The change of use results in a net increase of 15 or more parking spaces.
- B. Schedule of Required Off-Street Parking Facilities. The following parking schedule shall be used to calculate the required number of parking spaces per use, as necessary. Unless otherwise noted, the calculation shall be based upon the gross square footage of the floor area of the use. Where the calculation results in a fraction of a space, the required number of parking spaces shall be rounded to the next highest whole number. Where more than one permitted use is allowed within the district, the requirement for parking spaces shall be the sum of the individual uses computed separately.
 - 1. General commercial: one space for each 700 square feet.
 - 2. Wholesale use: one space for each 3,000 square feet.
 - 3. Cannabis retailer: one space for each 300 feet.
- C. The design standards of § Z-509 shall apply to all off-street parking.
- D. Location of Parking. Off-street parking spaces shall be located within 200 feet of the use it is intended to serve.

SECTION 12: Referral to Planning Board. Following introduction and prior to adoption, the Clerk shall cause a copy of this ordinance to be referred to the City of Lambertville Planning Board for review pursuant to *N.J.S.A. 40:55D-26*.

SECTION 13: Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

SECTION 14: Severability. If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be valid and enforceable.

SECTION 15: Effective Date. This ordinance shall take effect twenty days from the date of its adoption and upon filing with the Hunterdon County Planning Board, as required pursuant to *N.J.S.A. 40:69A-181* and *N.J.S.A. 40:55D-16*.

Introduced: November 18, 2021

Referred to Planning Board: December 1, 2021

Second Reading and Adoption: December 16, 2021