

**TOWNSHIP OF CRANFORD  
CRANFORD, NEW JERSEY**

**ORDINANCE NO. 2020-09**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CRANFORD,  
PART III: HEALTH LEGISLATION, CHAPTER 255 LAND DEVELOPMENT, TO  
TEMPORARILY DELEGATE CERTAIN PLANNING BOARD DUTIES TO A CODE  
REVIEW COMMITTEE**

**WHEREAS** on January 31, 2020, the United States Department of Health and Human Services declared a public health emergency for the United States due to the highly contagious and deadly nature of the disease COVID-19; and

**WHEREAS** on March 9, 2020, due to the imminent danger to the residents of New Jersey posed by COVID-19, the Governor of the State of New Jersey declared a public health emergency and a State of Emergency through Executive Order No. 102; and

**WHEREAS** on March 16, 2020, the Governor of the State of New Jersey issued Executive Order No. 104 emphasizing the state-wide implementation of the social distancing guidelines recommended by the Center for Disease Control which specifies that individuals should avoid group settings and mass gatherings, and to maintain a physical distance of approximately 6 feet or 2 meters from others when possible; and

**WHEREAS** it was declared by the State of New Jersey that “bars and restaurants are locations where significant numbers of individuals gather in close proximity, making adherence to social distancing protocols impossible or impracticable” and that in order to “mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance,”; and

**WHEREAS** through Executive Order 104 issued by the Governor of the State of New Jersey, “restaurants, 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” were, for all intents and purposes, shut-down excepting pick-up and delivery services as a means to help mitigate the community spread of COVID-19 throughout the state; and

**WHEREAS** in the Township of Cranford, there are fifty-nine (59) local businesses negatively impacted by Executive Order 104 that are classified as “restaurants, 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” located within the Special Improvement District alone with numerous others throughout the Township; and

**WHEREAS** the small businesses negatively impacted by the requirements established by Executive Order No. 104 employ hundreds of people in the Township of Cranford with an unknown number of persons who subsequently had to be released from employment; and

**WHEREAS** the full impact of the restrictions imposed on small businesses due to the on-going worldwide COVID-19 pandemic are not yet fully known; and

**WHEREAS** it is assumed that a scaled re-opening of the State will require a continuation of the social distancing requirements implemented by the Governor of the State of New Jersey through Executive Order No. 104 as recommended by the CDC and the DOH; and

**WHEREAS** an assumed scaled and limited ‘re-opening’ will inhibit those businesses impacted by the restrictions imposed by Executive Order No. 104 to fully recover or to operate at their full, permitted capacity; and

**WHEREAS** the Township Committee believes it is essential to mitigate the potential losses faced by the small businesses located within the Township and to protect the long-term economic stability and viability of the Township to the fullest extent practicable, while ensuring the effective and responsible practice of land use development and management in the Township in accordance with the goals and objectives of the Township’s Master Plan; and

**WHEREAS** the Township Committee recommends the temporary lifting of certain restrictions and requirements related to the creation or expansion of outdoor seating for “restaurants, 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” which have been severely impacted by the imposition of restrictions implemented through Executive Order No. 104 and the assumed continuance of social distancing requirements as the State of New Jersey inevitably begins a staged ‘re-opening’ and lifting of restrictions throughout the state.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Cranford as follows:

**SECTION 1. Definitions.**

Temporary Outdoor Seating – any expansion of outdoor seating through the construction or erection of a non-permanent structure that is to be removed by December 1, 2020. Temporary structures are not to be constructed of any materials that may constitute a permanent foundation, walls, lighting, heating and/or cooling.

Permanent Outdoor Seating – any expansion of outdoor seating through the construction or erection of a permanent structure. Permanent structures are to be those to remain beyond December 1, 2020 and must meet all applicable code requirements including the Uniform Construction Code, Health Code, and Fire Code. Facilities may be deemed permanent if the means and materials of construction constitute a permanent foundation, walls, lighting, hearing and/or cooling.

**SECTION 2.** There is hereby created, for the period this Ordinance is in effect, a Code Review Committee consisting of the Construction Official, Township Engineer, Fire Official, Health Official, Zoning Officer, and the Mayor or his/her designee.

**SECTION 3.** The powers and duties of the Planning Board, as specified in Section 255-2F, including Section 255-2F(11) & (12), to hear applications for development are hereby transferred to the Code Review Committee if:

a. The application is for an existing establishment defined in Chapter 255 of the Code of the Township of Cranford as ‘bakeries’, ‘bars and taverns,’ ‘coffee shops’, ‘delicatessens’, ‘restaurants’ or a similar uses offering food and drink with on-site seating or dining, that wishes;

b. The application proposes to expand their seating capacity through the construction or expansion of outdoor seating facilities;

c. The property in question was not subject to a previous site plan approval with conditions of approval that would be affected by the proposed construction or expansion of outdoor seating facilities;

d. The proposed construction or expansion of outdoor seating facilities is compliant with all requirements and standards as defined in Article V – Zoning of Chapter 255 – Land Development and would not otherwise require relief from the Zoning Board of Adjustment;

e. The proposed construction or expansion of outdoor seating facilities is compliant with all the requirements and standards as defined in Chapter 225 – Flood Damage Prevention;

f. The proposed construction or expansion of outdoor seating facilities is compliant with all applicable health code requirements;

g. The proposed construction or expansion of outdoor seating facilities is compliant all applicable fire and construction code requirements;

h. The applicant shall obtain any approvals necessary in order to permit the sale and/or consumption of alcoholic beverages in any temporary or permanent outdoor seating area;

i. In considering such applications, the Code Review Committee is to apply the standards for review and approval typically designated to the Planning Board and to ensure that the standards and requirements established by Chapter 255 – Land Development of the Township; and

j. Code are effectively enforced and the proposed construction or expansion of outdoor seating facilities is consistent with general intent and purpose of Chapter 255 – Land Development.

**SECTION 4. Extensions & Subsequent Review By Land Use Boards.**

- a. The Code Review Committee may grant one (1) 60-day extension for any previously approved construction or expansion of temporary outdoor seating facilities.
- b. Notwithstanding the foregoing, any applicant who receives approval pursuant to this Ordinance of an application for permanent outdoor seating must file, by December 1, 2020, an application, including for any variances or exceptions, etc., as applicable, before to the appropriate Board of Jurisdiction (i.e., Planning Board or Zoning Board of Adjustment).
- c. Any applicant who seeks to improve temporary outdoor seating facilities that were approved pursuant to this Ordinance must seek approval from the appropriate Board of Jurisdiction.

**SECTION 5. Conduct of Code Review Committee Meetings.** The Code Review Committee’s review and considerations shall comply with the Open Public Meetings Act and Open Public Records Act, including but not limited to the following:

- a. The Office of Planning & Zoning shall provide notification to the public of all applications received for review by the Code Review Committee for the construction or expansion of outdoor seating facilities on the Township Website. Details shall include:
  - i. The applicant;
  - ii. Applicant address and business address (if different);
  - iii. Details regarding the proposed improvements including:
    - 1. Construction type and materials;
    - 2. Proposed extension of services;
    - 3. Existing seating capacity;
    - 4. Proposed seating capacity.
- b. Meetings are to be held immediately following scheduled Development Review Committee meetings; held every other Wednesday on the same day as scheduled Planning Board meetings.
- c. Meetings shall be held publicly either in person or via a video platform such as Google Meet. Interested parties should be provided access information for all meetings that are held remotely upon request.

**SECTION 6. Appeal Process.** Applicants or interested parties may appeal to the applicable Board of Jurisdiction any decision rendered by the Code Review Committee.

- a. Applicants denied by the Code Review Committee due to a failure to meet any of the requirements listed above (Provisions 1-5) that would ordinarily be subject to Planning Board approval shall submit a site plan application to the Planning Board.
- b. Applicants denied by the Code Review Committee due to the requirement to obtain a “d” or “use” variance that would ordinarily be subject to approval by the

Zoning Board of Adjustment shall submit an application to the Zoning Board of Adjustment.

**SECTION 7.** This Ordinance shall take effect upon adoption and publication according to law, and shall expire on December 31, 2020, unless extended by ordinance duly enacted according to law.

Introduced:  
Adopted:

Approved:

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Patrick F. Giblin  
Chairman, Township Committee

Attest:

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Patricia Donahue, RMC  
Municipal Clerk

Recorded Vote

Introduced

Adopted

Patrick F. Giblin  
Kathleen Prunty  
Thomas Hannen, Jr.  
Jean-Albert Maisonneuve  
Mary O'Connor