

**MINUTES OF THE BOROUGH OF EAST RUTHERFORD
MAYOR & COUNCIL SPECIAL MEETING HELD ON
JUNE 11, 2020
VIA ZOOM TELECONFERENCE
MEETING ID#827 7280 5067**

DUE TO THE CURRENT COVID-19 PANDEMIC THIS SPECIAL MEETING WAS HELD VIA ZOOM TELEPHONE CONFERENCE. IT WAS CALLED TO ORDER BY MAYOR LAHULLIER AT 6:00PM. FLAG SALUTE WAS HELD. THE FOLLOWING OPEN PUBLIC MEETING STATEMENT WAS READ:

This meeting is a Special Meeting of the Mayor and Council of the Borough of East Rutherford and is called pursuant to the provisions of the Open Public Meetings Law. This meeting was transmitted to the two newspapers listed below on June 4, 2020, posted on the bulletin board at the Municipal Building and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

The Herald News

The Record

ROLL CALL:

Councilmember	Present	Absent
Stallone	X	
Ravettine	X	
Banca	X	
Cronk	X	
Alvarez	X	
Lorusso	X	

Also present was Borough Clerk Danielle Lorenc and Attorney Gerald Salerno

.....

Mayor Lahullier stated this meeting was being held for a vote on Resolution #73-2020. After a brief discussion the following resolution was submitted for approval:

RESOLUTION #73 - 2020

**RESOLUTION OF THE COUNCIL OF THE BOROUGH OF EAST
RUTHERFORD TEMPORARILY RELAXING THE REQUIREMENTS
TO PERMIT OUTDOOR RESTAURANT SEATING DURING THE
COVID-19 PUBLIC HEALTH EMERGENCY**

WHEREAS, on March 9, 2020, Governor Philip D. Murphy issued Executive Order No. 103, which declared both a Public Health Emergency and State of Emergency in the State of New Jersey as a result of the COVID-19 pandemic; and

WHEREAS, on March 21, 2020, Governor Murphy issued Executive Order No. 107, which specifically regulated the operation of Restaurant/Bars and provides, in part, that “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 or takeout services in accordance with their existing liquor licenses; and

WHEREAS, on June 3, 2020, Governor Murphy issued Executive Order No. 150, which effective at 6:00 am. on June 15, 2020, permits restaurants, bars, and other food or beverage establishments to provide in-person service at areas designated for food and/or beverage consumption (“outdoor dining”), provided that the establishment complies with the requirements set forth therein; and

WHEREAS, Chapter 207 of the Borough Code, permits a restaurant to seek approval to create and/or expand outdoor dining; and

WHEREAS, the Governing Body deems it appropriate to exercise its authority to temporarily relax the requirements set forth in Chapter 207 to permit restaurants to apply to expand their footprint to outdoor areas, both within their property and immediately adjacent to their property, and among municipally-governed areas, including but not limited to sidewalks, consistent with the provisions of Executive Order 150;

NOW THEREFORE , in accordance with the aforesaid orders and recitals, which are incorporated herein by reference, it is promulgated and declared that until further Order of the

Borough of East Rutherford, the following temporary restrictions and regulations are hereby adopted.

A. Except as provided herein, the terms of this Resolution are subject to the terms of Executive Order No.150, the Protocols for Food or Beverage Establishments Offering Service in Outdoor Areas Pursuant To Executive Order No. 150, and any other applicable Federal, State or County regulations to the extent they conflict with the terms set forth herein.

B. All restaurants, including those previously authorized to provide outdoor dining pursuant to Chapter 207 of the Borough Code, may seek approval to create and/or expand outdoor dining. For purposes of this Resolution, restaurants shall mean restaurants approved for interior seating and in-person dining and shall not include restaurants that are takeout only and have not received approval for indoor seating. Takeout establishments shall not be permitted to seek the outdoor seating areas authorized by this Order.

C. Subject to the approval of the proposed outdoor seating and area layout, at the sole and absolute discretion of the Borough Zoning Officer, restaurants shall be permitted to create and/or expand outdoor dining areas into the sidewalk, parking lot and other outdoor areas owned or leased by the restaurant. Such areas shall be immediately adjacent to the restaurant and located within the property lines of property that is owned or leased by the restaurant and allow for a minimum of six (6) feet for pedestrian traffic on sidewalks. The Borough Zoning Officer may also permit a restaurant to expand its outdoor dining area onto non-contiguous property, provided the property is in reasonable proximity to the restaurant and the Zoning Officer determines in his or her own absolute discretion that the applicant has safeguards in place to ensure that such outdoor dining service can be provided in a manner that protects the public health, safety and welfare. The Borough's discretion over the location, scope, setbacks, and size of outdoor seating areas and related structures is absolute and the Borough may condition any approval based upon such requirements and any other consideration, including, but not limited to, parking requirements, pedestrian safety, hours of operation, neighborhood concerns, and the public health, welfare, and safety. All of the conditions set forth in Chapter 207 shall be applicable, unless otherwise waived in the sole and absolute discretion of the Borough Zoning Officer.

D. The maximum permitted occupancy of a restaurant may be revised at the Borough's discretion in order to ensure that all restaurants comply with the CDC and State

recommended social distancing guidelines. In addition, the Borough may establish and apportion new maximum occupancy numbers between the inside and outside dining areas. This regulation shall apply to all restaurants, regardless of whether the restaurants apply for outdoor seating pursuant to this Emergency Order.

E. In addition to the creation and/or expansion of the outdoor dining areas, restaurants shall be permitted to apply to install temporary awnings, tents, pergolas, signs and other structures authorized by the Borough to protect the outdoor seating area from the elements.

F. Borough restaurants shall be required to apply to the Borough for approval to expand their outdoor seating areas pursuant to the procedures set forth in Chapter 207. Each applicant shall be required to provide plans establishing the proposed outdoor seating areas, the property lines and location of the proposed seating areas, and the proposed structures to protect the outdoor seating area from the elements. All applications shall be approved or denied at the sole discretion of the Zoning Officer, and Health Department and any approval may be subject to additional conditions of approval, including revisions to the maximum seating occupancy in the total or either area, the type or scope of structures, the location of the proposed areas, and so on. The applications shall be available at the Municipal Clerk's Office and online on the Borough's website.

G. All restaurants that offer outdoor dining, including those previously licensed to do so, shall fully comply with Executive Order No.150, the Protocols for Food or Beverage Establishments Offering Service in Outdoor Areas Pursuant To Executive Order No. 150 and all other applicable State, County, Federal and local regulations including but not limited to the following:

1. Ensure all areas designated for food and/or beverage consumption are in conformance with applicable local, State, and Federal regulations;
2. Limit capacity to a number that ensures all patrons can remain six feet apart from all other patrons at all times, except for those patrons with whom they are sharing a table;
3. Satisfy all standards issued by DOH pursuant to Paragraph 3 of Executive Order No. 150;
4. Ensure that tables seating individual groups are six feet apart in all

directions and that individual seats in any shared area that is not reserved for individual groups, such as an outdoor bar area, are also six feet apart in all directions;

5. Prohibit patrons from entering the indoor premises of the food or beverage establishment, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom;

6. Require patrons to wear a face covering while inside the indoor premises of the food or beverage establishment, unless the patron has a medical reason for not doing so or is a child under two years of age; and

7. Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall automatically sunset once food or beverage establishments are permitted to offer in-person service in indoor areas.

H. All restaurants serving alcoholic beverages shall fully comply with all requirements of the New Jersey Division of Alcoholic Beverage Control, and shall obtain a COVID-19 Expansion of Premises Permit ("COVID-19 Expansion Permit"), to authorize the expansion of the licensed premises into outdoor areas. A copy of said permit shall be filed with the Borough Clerk and the Zoning Officer.

I. All Applicants shall submit a Litter Control Plan, which shall include a description of the number and location of trash receptacles proposed to service the outdoor dining area, and the frequency with which the outdoor dining area will be policed for litter in order to control the accumulation of trash/recycling.

J. The Borough of East Rutherford reserves the right to amend, terminate, or repeal this resolution, and accordingly no property rights are granted to any person(s) or entities by virtue of this resolution. All persons(s) and/or entities selecting to pursue temporary relief in accordance with the provisions of this resolution are hereby given notice that the expenditure of any funds, or the incurrence of any costs, in reliance upon the provisions of this resolution shall be at their sole and exclusive expense. All persons and/or entities are hereby given notice that the risk of loss for any expenditure and/or costs incurred shall be their sole and exclusive responsibility.

K. In the event the Zoning Officer determines that an Applicant is in violation of the conditions of any temporary site plan approved in relation to this Resolution, the Zoning Officer

is hereby authorized to immediately revoke the temporary site plan approval received in relation to this Resolution.

L. The Borough Zoning Officer is hereby authorized and empowered to enforce this Resolution and the several provisions thereof. The Zoning Officer is hereby further empowered to enforce the discretionary powers which are considered necessary in order to make the provisions hereof properly effective and useful for the benefit of Applicants. In order to avoid injustice, the possible abuse of discretion and to correct the possibility of error in judgment, any Applicant who's temporary site plan application is denied by the Zoning Officer has the right to appeal to the governing body by filing a notice of appeal with the Borough Clerk within thirty (30) days of the denial of said application. Upon receipt of any such notice of appeal, the governing body will hear the appeal at its regular meeting, at which time the owner and any other persons appearing in the matter will be heard or afforded the opportunity to be heard. At the conclusion of said hearing, the governing body will consider the matter, determine whether to uphold or overturn the Zoning Officer's decision, and thereafter notify the owner of its decision.

Moved: Councilman Ravettine

Second: Councilman Stallone

Roll Call: All Ayes

Mayor Lahullier asked for a motion to open the citizen's hearing:

Moved: Councilman Ravettine

Second: Councilman Stallone

Roll Call: All present voted aye

Mayor Lahullier asked if any citizen wished to be heard

Jim Logethesis (owner of Candlewyck Diner) thanked the Mayor and Council for doing as much as possible.

Mayor Lahullier asked for a motion to close the citizen's hearing:

Moved: Councilman Ravettine

Second: Councilwoman Stallone

Roll Call: All present voted aye

Mayor Lahullier asked for a motion to adjourn the special meeting at 6:14PM:

Moved: Councilman Stallone

Second: Councilwoman Banca

Roll Call: All present voted aye

A handwritten signature in blue ink, appearing to read "Danielle Lorenc". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Danielle Lorenc, RMC