

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/25/22 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

INTRODUCED

ORDINANCE 2022-11

DOC ID: 3848

An Ordinance Authorizing the Consumption of Alcoholic Beverages in Certain Areas of the Borough of Flemington

WHEREAS, on January 18, 2022 Governor Murphy signed P.L.2021, c.395, which allows municipalities to designate outdoor areas upon which people may consume alcoholic beverages; and

WHEREAS, certain areas of the Village Artisan District of the Borough of Flemington (the "Borough") have long been hubs of entertainment and activity, and there are a number of food and beverage establishments in those areas for the public to enjoy; and

WHEREAS, the success of permitting expanded outdoor dining as a result of the COVID-19 pandemic has made it apparent that Borough restaurants and other food and beverage establishments benefit from permitting patrons of such establishments to possess open containers of alcoholic beverages in certain areas; and

WHEREAS, permitting such outdoor consumption also benefits the public health by providing for open air social distancing; and

WHEREAS, it is apparent that the public desires these opportunities to enhance their enjoyment of the Borough's food and beverage establishments; and

WHEREAS, those open container areas would help both visitors to the Borough and local residents safely enjoy the open spaces and food and beverage experiences that the Borough has to offer and would be consistent with the intent of the new legislation allowing consumers to purchase alcohol for individual consumption; and

WHEREAS, in addition to areas of the Village Artisan District of the Borough, there are other times and areas of the Borough in which the open consumption of alcoholic beverages should be formally permitted, such as during special Flemington Community Partnership-sponsored events.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION I. Chapter 10 of the Borough Code, entitled "Streets and Sidewalks", shall be and hereby is amended by adding a new section, 10-7, "Open Container Areas" as follows:

10-7. Establishment of Open Container Areas.

A. Pursuant to P.L.2021, c.395, it shall be lawful for any person who is at least 21 years of age to consume open containers of alcoholic beverages outdoors in the following areas:

1. Stangl Road between Church Street and Mine Street, but only in those areas that are delineated, designed and/or partitioned for use as outdoor seating or dining areas or for social activities (said areas commonly referred to and defined herein as “parklets”), or on the sidewalks abutting or immediately adjacent to said areas, as well as on the roadway or portions thereof which have been sufficiently closed to vehicular traffic and reserved exclusively for pedestrian use. Such permitted consumption of open containers shall be limited to Fridays between the hours of 4pm and 11pm, Saturdays between the hours of 1pm and 11pm, and Sundays between the hours of 1pm and 8pm.

B. A “Parklet” is defined as an area over parking spaces adjacent to a sidewalk area upon which tables, chairs, umbrellas, landscaping, benches, and other accessory components may be placed to create an enhanced pedestrian experience for the general public and patrons of retail businesses, offering an area where one might sit, rest, recreate, socialize and/or indulge in open air dining and beverage experience. No parklet shall exist within the Borough of Flemington without the permission of the Borough.

C. Notwithstanding the provisions of this Ordinance, the sale of alcoholic beverages for consumption in an open container area shall be subject to the provisions of Title 33 of the Revised Statutes of the State of New Jersey, rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and all other municipal ordinances.

D. This Ordinance does not, and is not intended to, confer any greater rights upon a holder of an ABC license or permit than that permitted by the Division of Alcoholic Beverage Control itself, or any law, rule, or regulation regarding alcoholic beverage licenses and permits.

SECTION II. Section 5-6.3 of the Borough Code, entitled “Permitted” Exceptions”, concerning the consumption of alcoholic beverages in public places, shall be amended as follows (additions noted in bold italics *thus*, and deletions noted in strikethrough ~~thus~~):

A. The Borough Council may, by motion and upon application being made therefor and for good cause, permit the possession and consumption of alcoholic beverages within premises not covered by a plenary retail consumption liquor licensee, for special functions or social events. The permission if granted, shall be consistent with the Alcoholic Beverage Control Law of the State of New Jersey and the regulations enacted pursuant thereto, and upon such further conditions as may be imposed by the Borough Council.

B. Consumption of alcoholic beverages is permitted in certain public areas during certain times consistent with Section 10-7, entitled “Open Container Areas.”

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the

validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Introduced: July 11, 2022

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk