

BOROUGH OF SEASIDE PARK

ORDINANCE NO. 1642

AN ORDINANCE OF THE BOROUGH OF SEASIDE PARK, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER 200 ENTITLED "DEVELOPMENT REGULATIONS"

BE IT ORDAINED by the Borough Council of the Borough of Seaside Park, County of Ocean, State of New Jersey as follows:

Deletions are shown by ~~strikethrough~~; additions are shown by underline.

SECTION 1. Section 200 of the Code of the Borough of Seaside Park is hereby amended as follows:

Add Section

Sec. 200-66.1 Conditional Uses

The municipality recognizes that certain uses, activities and structures are necessary to serve the needs and provide for the convenience of the citizens of the Borough of Seaside Park and at the same time appreciating the fact that they or any one of them, may become inimical to the public health, safety and general welfare of the community if located without due consideration to existing conditions and surroundings. Such uses are designated as conditional uses subject to the standards and regulations established herein. These standards are established in accordance with the Municipal Land Use Law.

- A. Applications for a conditional use shall be made to the Planning Board. The application shall be granted or denied, after public hearing, within ninety-five (95) days of accepting a complete application or within such further time as may be consented to by the application. Notice of the hearing shall include reference to all matters being heard, including site plan and subdivision. The approving authority shall act on all matters simultaneously. Failure to act within the required time shall constitute approval. In reviewing the application, the approving authority shall review the number of employees or users of the property, the requirements of this ordinance, and consider all reasonable elements which could affect the public health, welfare, safety, comfort and convenience, such as but not limited to, the proposed use(s), the character of the area, traffic patterns, vehicular access to this and neighboring properties, seasonal congestion and parking needs, pedestrian ways, landscaping, lighting, signs, drainage, sewerage treatment, potable water supply, utilities, and structural location(s) and orientation(s). Each conditional use shall be considered as an individual case and the approving authority shall be satisfied the conditional use is reasonably necessary for the convenience of the public in the location proposed. The burden of proof shall be on the applicant. All conditional uses shall require site plan approval.

- B. In approving a conditional use, a time limit of one (1) year from the date of the approval shall be set within which time the owner shall secure a building permit, otherwise, the approval shall be deemed null and void. The approving authority may

for good cause shown extend the period for securing a building permit for an additional period not exceeding six (6) months.

- C. The use for which an application is being made must be specifically listed as a conditional use within the zone where the property is located.
- D. Conditional uses shall adhere to the additional standards specified for the particular use.
- E. No use specified within this article shall be considered a conditional use unless it is specifically listed as a conditional use in the zone district regulations.
- F. Conditional uses in existence within a specified zone at the date of adoption of this ordinance shall be deemed to be "grandfathered" and not subject to the additional standards specified for the particular use.
- G. No expansion of a conditional use shall be permitted without meeting the additional standards specified for the particular use.
- H. In the event a property owner meeting the "grandfather" provisions herein changes the use, then in that event a Site Plan Application shall be submitted to the Planning Board.

SECTION 2. Section 200-46 of the Code of the Borough of Seaside Park entitled Nonconforming Uses, Structures or Lots is hereby amended to include the following:

[Add as first paragraph preamble]

The once lawful use of the land or a structure existing at the date of the adoption of this chapter may be continued although such use or structure does not now conform to the regulations specified by the chapter for the zoning district in which such use, lot or building is located.

[Additional language to be added as subsection (f)]

- (F) Certificate of Non-Conformity. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the Administrative Officer, defined as the Borough Zoning Officer, within one year of the adoption of the which rendered the use or structure nonconforming or any time to the Planning Board.

The Administrative Officer shall be entitled to demand and receive for such certification issued by him a reasonable fee not in excess of those provided in R.R. 54:5-14 and R.S. 54:5-15. The fees collected by the official shall be paid by him to the municipality. Denial by the Administrative Officer shall be appealable to the Planning Board. Sections 59 through of 62 of P.L. 1979, c 291 (C.40:55D-72 to C. 40:55D-075) shall apply to applications or appeals to the Planning Board.

Delete as follows

2. PARTIAL DESTRUCTION

(a)

2. ~~Destruction is limited to not more than fifty (50) percent of the structure or building's square footage based on the evaluation by both the Borough's Zoning Officer and the Construction Official using the Borough's Evaluation Checklist.~~

SECTION 3. Section 200-69 of the Code of the Borough of Seaside Park entitled Mixed Use Zone shall be amended as follows:

Add as follows

D. Conditional Uses. Retail Stores and Restaurants (between O and H Streets only)

1. Retail Stores and Restaurants shall be a Conditional Use only in the blocks between O and H Streets along the East and West sides of Central Avenue. They shall be prohibited in any other area of the zone.
2. Retail Stores and Restaurants shall be subject to a minimum setback of 50 feet from the retail store or restaurant to the nearest lot line of a residential use. The required setback shall be measured from the nearest portion of the building which is occupied by the retail store or restaurant to the nearest lot line of a lot which is used exclusively as a residential dwelling.
3. The use shall be conducted within a totally enclosed, permanent building.
4. All public entrances and exits shall be to Central Avenue.
5. All retail stores and restaurants shall provide separate public restroom facilities easily accessible from the interior of the building for male and female customer use.
6. Restaurants shall not be exclusively a "take-out" or "to-go" business and shall be required to have a minimum dine-in seating area for 20 seats.
7. All restaurant kitchen exhaust and ventilation systems shall be designed and installed to maximize the control and elimination of grease, odor, smoke and noise in order to minimize any impact on adjacent properties from emissions and odors and shall be discharged through the roof only.
8. Any site plan plat required by Chapter 200 shall include a depiction of the dumpster location and any required buffer.
9. The hours of operation shall be no longer than seventeen hours per day and the facility shall be closed between the hours of 12:00 a.m. and 7:00 a.m., at a minimum.
10. All other area, yard and general requirements as specified in 200-68 Business Zone for Retail Stores and Restaurants must be met.

G. Buffer Requirements See 200-34, Buffers and the following additional requirements for Conditional Uses.

In the case of any Conditional Use under 200-69 there shall be a designated buffer area which shall be contiguous with residential property lines and be of uniform width of not less than ten (10) feet. The applicant shall be required to erect a six (6) foot high solid fence and install landscape plantings sufficient to provide the required buffer.

H. Minimum Off-Street Parking.

(5) Retail Stores

- (1) One (1) parking space per unit or use.
- (2) All off-street parking spaces are to be located in the rear or side of the building.

(6) Restaurants

- (1) One (1) parking space per three (3) seats.
- (2) All off-street parking spaces are to be located in the rear or side of the building.

SECTION 4. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.


SECTION 5. In the event that any portion of this ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the ordinance actually adjudged to be invalid, and the remaining portions of this ordinance shall be deemed severable there from and shall not be affected.

SECTION 6. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on the first reading at the regular meeting of the Borough Council of the Borough of Seaside Park, in the County of Ocean, held on the 25th day of November, 2013 and will be considered for second reading and final passage at the regular meeting of said governing body to be held on the 12th day of December, 2013 at 7:00 p.m. at the Council Chambers, Municipal Building, Sixth & Central Avenues, Seaside Park, New Jersey at which time and place any person desiring to be heard upon same will be given an opportunity to be so heard.

A copy of this ordinance has been posted on the bulletin board upon which public notices are customarily posted in the Borough Hall of the Borough during the week prior to and up to and including the date of such meeting; copies of the ordinance are available to the general public of the Borough who shall request such copies, at the office of the Municipal Clerk in said Borough of Seaside Park, in the County of Ocean, New Jersey.


KAREN BARNA, Borough Clerk

Approved:


ROBERT W. MATTHIES, MAYOR

BOROUGH OF SEASIDE PARK

ORDINANCE NO. 1642

**AN ORDINANCE OF THE BOROUGH OF SEASIDE PARK, OCEAN COUNTY,
NEW JERSEY AMENDING CHAPTER 200 ENTITLED "DEVELOPMENT
REGULATIONS"**

NOTICE OF ADOPTION

Please take notice that the above Ordinance No. 1642 was adopted upon final reading at the regular meeting of the Borough Council at a meeting held at Sixth and Central Avenues, Seaside Park, NJ on December 12, 2013.


Karen Barina
Borough Clerk

December 18, 2013