

**Village of Westhampton Beach
Board of Trustees Special Meeting
Tuesday, June 9, 2020 at 5 p.m.**

AUTHORIZING THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTHAMPTON BEACH TO APPROVE TEMPORARY EXPANSION OF OUTDOOR DINING DURING THE COVID-19 PANDEMIC SUBJECT TO SPECIFIED CONDITIONS

WHEREAS, the Covid-19 pandemic has led to closures of lawfully operating restaurants in the Village of Westhampton Beach; and

WHEREAS, the State of New York, acting through the emergency powers of the Governor, is permitting restaurants to provide outdoor dining in Phase 2 of the State's reopening plan; and

WHEREAS, the Board of Trustees expects that Phase 2 for Suffolk County will begin this week; and

WHEREAS, the Board of Trustees wishes to temporarily expand outdoor dining capacity for restaurants that already have a permit for outdoor dining pursuant to Chapter 196 of the Code of the Village of Westhampton Beach and permit outdoor dining for restaurants that do not have such a permit; and

WHEREAS, such expansion or permission is in accordance with the policy of the State and will foster the health, welfare and safety of the residents of the Village and its visitors; and

WHEREAS, outdoor dining in the Village is subject to the granting of a permit from the Board of Trustees under Chapter 196 of the Code; and

WHEREAS, the Board of Trustees is mindful of the public health concerns and the public interest of safety and of gradually opening businesses as permitted by the State; and

WHEREAS, allowing restaurants to reopen for the safe conduct of outdoor dining, subject to approval and conditions hereinafter set forth, is a prudent action that rationally balances those public interests; and

WHEREAS, any expansion of or permission to conduct outdoor dining pursuant to this temporary resolution shall not be considered an expansion of an existing permit for outdoor dining duly issued by the Village pursuant to Chapter 196 of the Code or the issuance of such a permit; and

WHEREAS, this temporary resolution is being adopted pursuant to the Village's express and inherent powers to address emergency public health concerns;

NOW, THEREFORE, BE IT

RESOLVED, that the requirements of Chapter 196 of the Code which are inconsistent with the provisions of this resolution are hereby suspended and outdoor dining in excess of that permitted under an existing permit issued pursuant to Chapter 196 of the

Code is hereby permitted and outdoor dining for restaurants that do not have such a permit is also hereby permitted, subject to the following conditions:

- 1) All compulsory social distancing and other applicable Covid-19 requirements shall be observed; and
- 2) All requirements of the New York State Liquor Authority recently promulgated for outdoor dining shall be complied with; and
- 3) No patron of the restaurant shall be permitted within the interior of the restaurant other than as authorized by the Governor of the State of New York or other controlling authority; and
- 4) Submission of an application for Temporary Outdoor Dining on a form provided by the Village shall be submitted to the Clerk for review by the Building Inspector.
- 5) A copy of a survey or other diagram, drawn to scale, shall be submitted with the application showing that all outdoor dining shall be located no closer than five (5) feet in from the area of the sidewalk that is improved with pavers (so as to leave an unobstructed pedestrian passageway of at least five feet in width), and also showing the location of all chairs and tables; and
- 6) The outdoor dining area shall be enclosed with a fence, rope or other barrier demarking the extent of such area; and
- 7) The applicant shall submit along with the application an indemnity, in the form established by the Village Attorney, indemnifying the Village for any damage caused to Village property, including but not limited to the sidewalk and pavers, and also indemnifying the Village for any property damage or bodily injury resulting either directly or indirectly from such outdoor dining and within five (5) business days after the submission of such application provide the Village with proof in the form of a certificate acceptable to the Village Attorney, that the Village has been added as an additional insured to the applicant's general liability insurance policy; and
- 8) The Building Inspector shall issue a permit in accordance with this resolution upon compliance with all the terms hereof, and
- 9) The Building Inspector is authorized to submit an application to the Board of Trustees in the event he deems it necessary.
- 10) No restaurant may expand its outdoor dining in accordance with the provisions of this resolution until it receives a permit from the Building Inspector; and
- 11) The Building Inspector, the Code Enforcement Officer and the Village Police are authorized to enforce the provisions of this resolution and any permits given pursuant to it; and
- 12) The permits issued pursuant to this resolution are in the nature of temporary licenses and, as such, may be terminated or withdrawn by the Board of Trustees or the Mayor, without hearing, if a permittee fails to comply with the provisions of this resolution or a permit issued pursuant to it, and

BE IT FURTHER RESOLVED, that because of the short time in which Phase 2 is expected to begin, the Building Inspector is hereby authorized to issue the permits authorized by this resolution, without the need for full Board of Trustees' review or for referral to the Planning Board; and it is further

RESOLVED, that any permit issued pursuant to his resolution shall expire upon the termination of Covid-19 restrictions imposed by the State or November 1, 2020, whichever is sooner; and it is further

RESOLVED, that those provisions of Chapter 196 of the Code which are inconsistent with the provisions of this resolution are temporarily suspended; and it is further

RESOLVED, that nothing herein shall be deemed to supersede any New York State or federal requirements, including those relating to the Covid-19 pandemic; and it is further

RESOLVED, that this resolution shall take effect immediately upon adoption by the Board of Trustees.

DATED: June 9, 2020

**Elizabeth Lindtvit
Village Clerk**