



CITY OF NEWARK NO.:
EXECUTIVE ORDER

MEO 21-0007

DATE: 5/19/2021

WHEREAS, Coronavirus disease 2019 (“COVID-19”) is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, over one year ago, on March 9, 2020 Governor Phillip D. Murphy of the State of New Jersey (“Governor Murphy”) issued Executive Order 103, declaring a Public Health Emergency and State of Emergency due to the spread of COVID-19; and

WHEREAS, I declared a State of Emergency in the City of Newark on March 12, 2020; and

WHEREAS, on March 14, 2020, the City of Newark had its first confirmed case of COVID-19; and

WHEREAS, on March 18, 2020, the City of Newark had its first confirmed death of a Newark resident from COVID-19; and

WHEREAS, since March 18, 2020, I signed approximately eighteen (18) Executive Orders throughout 2020, which set forth restrictions and protocols in our effort to stem the spread of COVID-19, and to provide some economic relief to Newark businesses; and

WHEREAS, the United States Food and Drug Administration’s Emergency Use Authorization has facilitated the availability and use of medical countermeasures to fight COVID-19, and vaccines are now available to prevent the severe effects leading to hospitalization and death that often resulted from COVID-19; and

WHEREAS, citizens are following the science, heeding the message of the doctors and medical experts and following the example set by President Biden, Governor Murphy, I and others to get vaccinated; and

WHEREAS, due to all of these advancements and steps towards stemming the spread of COVID-19 and its mutations, the overall rate of positive COVID-19 cases in the State and in our City is slowly decreasing; and

WHEREAS, we continue to follow the science and the guidance provided by the Centers for Disease Control and health experts, and as the COVID-19 positivity rate decreases,

we want to provide additional relief to our restaurants, businesses and overall local economy; and

WHEREAS, we seek to provide a range of alternatives that support new and expanded outdoor dining opportunities and other outdoor amenities to help stimulate the economic recovery while adhering to public health and safety protocols and maintaining social distancing.

NOW, THEREFORE BE IT ORDERED BY RAS J. BARAKA, MAYOR OF THE CITY OF NEWARK, NEW JERSEY THAT:

1. This Executive Order shall take effect immediately and shall terminate on October 31, 2021 unless otherwise rescinded or extended
2. Face coverings are required to be worn at all times except when individuals are: (1) eating or drinking, or; (2) are in a space/room/area where he/she is alone, or; (3) among individuals that he/she **knows** have been fully vaccinated.
3. Music cannot be played after 10:00 p.m. at outside dining establishments; although these outside dining establishments can remain open until 12:00 a.m.
4. Indoor dining establishments can stay open until 2:00 a.m.
5. Large indoor and outdoor venues such as NJPAC and the Prudential Arena are requested to implement a mandatory vaccine policy prior to any patron entering the building.
6. This Executive Order also creates certain protocols and restrictions on restaurants, cafeterias, dining establishments, and food courts by allowing in-person service in outdoor areas for the following activities.
7. Businesses that wish to utilize Permanent/Semi-Permanent Structures and/or Permanent or Temporary Tents to operate StrEATERIES, Parklets and/or outdoor dining facilities must submit an application to the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes requesting that the City issue the proper license and/or conduct the appropriate inspection and must adhere to all requirements of the New Jersey Uniform Commercial Code (N.J.A.C. 5:23-1.1, et seq.) and the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1, et seq.) Failure to do so will be a violation of this Executive Order. Violations are subject to revocation of any issued license as well as fines as set forth below.

7.1. STREATERIES.

- a. Restaurants and Dining and Food Establishments are permitted to temporarily convert curbside parking space into an area specifically intended for outdoor dining where take-away food and beverages may be consumed, pursuant to

the following guidelines. A StrEATERY may be sponsored or co-sponsored by more than one business on the block or by an entity supporting local businesses.

- b. **Definition of StrEATERY.** A shared public space temporarily converting curbside parking space into an area specifically intended for outdoor dining where take-away food and beverages may be consumed.
- c. **License Required.** No person or business shall operate a StrEATERY without having first obtained a license from the City of Newark and satisfying all the requirements of this chapter.
- d. **General Requirements; Design Standards.**
 - 1. No parking space, parking lane or other portion of the public right-of-way shall be occupied or utilized as a StrEATERY without prior approval by the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes, in cooperation with the Department of Engineering, the City of Newark Department of Public Safety, and the Newark Parking Authority.
 - 2. StrEATERIES shall not be located in a 10 feet bus stop, within 25 feet of a crosswalk, 10 feet of hydrants or in handicap spaces or loading zones.
 - 3. The area of the StrEATERY established by the application and approved by the City of Newark, shall be delineated from adjacent parking spaces and the travel lane of the adjacent street using temporary crowd control barriers, bollards, poles, planters or other approved means.

Examples of acceptable delineation:





4. Temporary ADA curb ramps must be provided; for StrEATERIES up to 30 linear feet one ramp shall be required, for StrEATERIES over 30 linear feet two ramps shall be required.
5. The surface upon which StrEATERIES shall be placed shall be covered with synthetic turf, solid color indoor-outdoor carpeting, or other approved covering.
6. Easily removable tables, chairs or other seating shall be provided. Tables shall be 2-top or 4-top only, no tables accommodating more than 4 persons shall be permitted. Tables and chairs shall be spaced at least 6 feet apart measured from the backs of opposite facing chairs. Outdoor or patio type furniture must be used. Upholstered furniture is prohibited.
7. Shade coverings such as umbrellas or pop-up canopies may be included as part of the StrEATERY set up provided: there is no reduction in vehicular or pedestrian visibility; no part of the shade canopy extends into the travel lane or over the sidewalk; the shade covering is anchored securely against wind; and all coverings are removed overnight. Shade

covering shall not contain advertising.

8. One 24 inch by 36 inch A-frame or similar movable sign shall be included for a StrEATERY up to 500 square feet in size. StrEATERIES over 500 square feet shall have two signs to be located at either end of the StrEATERY. Signs shall be positioned on the covered surface within the boundaries of the StrEATERY, not on the adjacent sidewalk.
 - a. The sign(s) shall clearly state that the StrEATERY is open to the public;
 - b. The sign(s) may identify the sponsor(s) of the StrEATERY;
 - c. The sign(s) shall include guidance regarding social distancing; and
 - d. The sign shall state that there is a 90-minute time limit for occupants of the StrEATERY.
9. Hours of operation shall be between 8:00 a.m. and 12:00 a.m. in all City of Newark Zoning Districts unless otherwise authorized by the Municipal Council; however, daily set-up of the StrEATERY shall follow the street-sweeping schedule and adjust accordingly.
10. All furniture, street delineation, safety equipment and road covering shall be removed at the end of each day by the responsible party.
11. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the licensed establishment.
12. The entire sidewalk area in front of the premises, including the entire area where the StrEATERY is located and 18 inches around it, must be maintained by sweeping or washing daily or more frequently by the licensee and as prescribed in Section 15:9-1 of these Revised General Ordinances.
13. Signage including advertising signage for the StrEATERY is prohibited.
14. Failure to comply with the guidelines stated herein shall result in revocation of permit.
15. The City reserves the right to limit the number of StrEATERIES per block based on available space and the need to maintain publicly accessible curbside space on each block for other uses.

e. **Application; Approval; Fees**

1. An application for a license for a StrEATERY shall be made to the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes on a form so provided by the department and made available upon request. The applicant must be the owner or registered agent of a permitted retail food establishment in the City. StrEateries must be actually operated and maintained by the same person who operates and maintains the related restaurant of which the StrEatery is a part and extension.
2. The application shall include, at minimum:
 - a. Designation of the responsible party by name, address, a 24-hour phone number and email.
 - b. A detailed description of the proposed location; including the start and end point of the proposed StrEATERY related to some fixed or easily identifiable street marker;
 - c. The length of the proposed StrEATERY both in feet and number of parking spaces;
 - d. The location of fire hydrants, handicap parking spaces, and loading zones and the distance from each where the StrEATERY will be located;
 - e. A detailed description of the street area where the StrEATERY is proposed including metes and bounds for the proposed area of encroachment;
 - f. Detailed specifications for all materials to be used to delineated the StrEATERY from adjacent parking and the travel lane;
 - g. Drawings providing: construction details; length, width, and height measurements; drainage accommodations, specifications for all materials to be used; and details for accessibility and safety measures. Drawings shall be submitted in digital format, plus three hard-copies;
 - h. The days of the week that the proposed StrEATERY would operate.

- i. Proof of insurance. A certificate of liability insurance that fully complies with those requirements set forth in Section 7.7 of this Executive Order.
3. Upon receipt of an application for a license for a StrEATERY, the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes shall review the application, in cooperation with other City Departments, the Newark Parking Authority, and proposed setup for consistency with the design standards established herein. The Director of Engineering shall take into consideration the location, potential interference with pedestrian or vehicular traffic, appropriateness of design, business record of the applicant, and safety, health and welfare considerations. Based upon the investigation, the Director of the Department of Engineering shall recommend approval, disapproval or modification of the license. Based upon the recommendation of the Director of the Department of Engineering, the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes shall be responsible for approving or denying the application within 10 business days.
4. No StrEATERY located in the public right-of-way be constructed without prior approval by the Department of Engineering and/or his designee, the Manager of the Division of Traffic & Signals. No StrEATERY shall be constructed without the required permits or installed without prior approval of the Director of Engineering and/or his designee, the Manager of Traffic & Signals in accordance with the provisions stated herein. Any StrEATERY construction over the right-of-way of a County roadway shall require consent, approval or waiver by Essex County.
5. All local property taxes and water and sewer charges must be current prior to the issuance of a license for a permit for a StrEATERY.
6. Fees.
 - a. Any person submitting an application for a StrEATERY shall pay an application fee of \$100.00.
 - b. Any successful applicant for a StrEATERY shall pay an annual license fee of \$100.00.
 - c. Obstruction of Streets and Public Places by Building Material and Other Articles; Permits, Fees, Deposits. Any successful application for a StrEATERY shall pay the following permit fees as set forth in the City's Municipal Code 29:5-21:

	Fee Deposit	
1. To occupy up to 100 square feet of street area including sidewalks for each 30-day period or fraction thereof	\$250	\$300
2. To occupy any area more than 100 square feet of street area including sidewalk for each 30-day period or fraction thereof	\$350	\$400

f. **Emergencies.**

1. The City of Newark, by order of the Director of Public Safety or his designee and/or the Department of Engineering, Division of Code Enforcement and Inspection may require a StrEATERY to be removed or restrict the set-up of StrEATERIES in the case of an emergency or imminent hazard, or for reasons of public safety or for failing to comply with any provision contained within this ordinance.
2. The City of Newark reserves the right to require the removal or temporary relocation of any parklet, within 14 days of written notice to the sponsor, for purposes of street repairs or other municipal work in or around the location of the parklet.

- g. **Responsibility for Restoration of the Right-of-Way.** Upon the expiration or revocation of the permit between the sponsor of a parklet and the City of Newark, the sponsor, at his/her own expense, shall remove the StrEATERY and any accessories or appurtenances associated with it from the public right-of-way, and shall restore the right-of-way as practicable to its original condition acceptable to the City. If the sponsor does not remove the aforementioned improvements, the City may remove such improvements and make such repairs as may be necessary to secure the property, at the sole cost and expense of the sponsor, and the cost of removal, repair and/or replacement shall be a municipal lien against the sponsor.

7.2. PARKLETS. Built as an extension of the sidewalk and designated as public space, a platform or similar level surface in the public right of way with amenities designed to incorporate seating, tables, greenery, bike parking, and umbrellas. Parklets are located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence.

Examples of parklets:



a. General Requirements; Design Standards.

1. No parking space, parking lane or other portion of the public right-of-way shall be occupied or utilized without prior approval by the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes. No parklet shall be constructed without prior approval of the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes in accordance with the provisions stated herein. Use of the right-of-way along a County roadway may require consent, approval or waiver by Essex County.
2. Parklets shall not be located within 10 feet of a bus stop, 25 feet of a crosswalk, 10 feet of hydrants, or in handicap spaces or loading zones.
3. The parklet shall consist of a platform designed to be level with the top of the curb line and the adjacent sidewalk. The platform shall be designed in such a way as to not impede rainwater sheet-flow of curb-side drainage. The parklet platform shall also be anchored in such a

way as to prevent flotation displacement.

4. The parklet design shall include a safety barrier at the leading end of the platform facing oncoming traffic. The safety barrier may be in the form of a built-in planter, bench, iron bollards, or similar.
5. The three street-facing sides of the platform shall be enclosed by built-in planters, benches, a wall or railings. Constructed elements shall be, but shall not exceed, 42 inches in height above the surface of the platform.
6. Removable or retractable umbrellas or awnings may be included as part of the parklet design provided: there is no reduction in vehicular or pedestrian visibility; no part of the shade canopy extends into the travel lane; the shade canopy is anchored securely against wind; and all coverings are closed or removed overnight. Shade coverings shall not contain advertising. Outdoor or patio type furniture must be used. Upholstered furniture is prohibited.
7. One permanent sign identifying the sponsor of the parklet may be installed or painted on the parklet. Sign should not exceed 3 square feet in size unless incorporated as an integral part of the design and approved by the review committee and zoning officer.
8. Where movable furniture is part of the parklet set up, that furniture must be able to be stored securely within the platform design and/or removed to a safe location nightly.
9. Refuse containers for trash and recycling shall be built into the design or provided and shall be emptied daily by the various respective Special Improvement Districts. The various respective Special Improvement Districts shall also be responsible for cleaning in and around the parklet. The City of Newark shall not be responsible for cleaning or maintenance.
10. Hours of operation shall be between 8:00 a.m. and 12:00 a.m. daily in all zones unless otherwise authorized by the Municipal Council.
11. Lighting, if any, incorporated into the design of the parklet shall be low voltage, low-lumen and indirect with screening to prevent light shed onto adjacent properties and the vehicular travel lane. Any overhead lighting shall be turned off when the parklet is not in use. An exception may be made for security lighting at floor or bench height, such an exception may be approved by the Department of Engineering on a case by case

basis.

12. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the licensed establishment.
13. Failure to comply with the guidelines stated herein shall be shall result in revocation of Parklet permit.

b. Application; Approval: Fees

1. An application for a Parklet shall be made to the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes on a form so provided by the department and made available upon request. The applicant must be the owner or registered agent of a permitted retail food establishment in the City. Parklets must be actually operated and maintained by the same person who operates and maintains the related restaurant of which the Parklet is a part and extension.
2. The application shall include, at minimum:
 - a. Designation of the responsible party by name, address, a 24-hour phone number and email.
 - b. A detailed description of the proposed location; including the start and end point of the proposed Parklet related to some fixed or easily identifiable street marker;
 - c. The length of the proposed Parklet both in feet and number of parking spaces;
 - d. The location of fire hydrants, handicap parking spaces, and loading zones and the distance from each where the Parklet will be located;
 - e. A detailed description of the street area where the parklet is proposed including metes and bounds for the proposed area of encroachment;
 - f. Detailed specifications for all materials to be used to delineate the Parklet from adjacent parking and the travel lane;
 - g. Drawings providing: construction details; length, width, and height measurements; drainage accommodation for platform and street, specifications for all materials to be used; and details for accessibility and safety measures. Drawings shall be submitted in digital format, plus three hard-copies;

- h. The days of the week that the proposed Parklet would operate; and
 - i. Proof of insurance. A certificate of liability insurance that fully complies with those requirements set forth in Section 7.7 of this Executive Order.
3. Upon receipt of an application for a license for a Parklet, the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes shall review the application, in cooperation with other City Departments, the Newark Parking Authority, and proposed setup for consistency with the design standards established herein. The Director of Engineering shall take into consideration the location, potential interference with pedestrian or vehicular traffic, appropriateness of design, business record of the applicant, and safety, health and welfare considerations. Based upon the investigation, the Director of the Department of Engineering shall recommend approval, disapproval or modification of the license. Based upon the recommendation of the Director of the Department of Engineering, the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes shall be responsible for approving or denying the application within 10 business days.
 4. All local property taxes and water and sewer charges must be current prior to the issuance of a license for a permit for a Parklet.
 5. Fees.
 - a. Application Fee. Any person submitting an application for a Parklet shall pay an application fee of \$100.00.
 - b. Annual License Fee. Any successful applicant for a Parklet shall pay an annual license fee of \$100.00.
 - c. Obstruction of Streets and Public Places by Building Material and Other Articles; Permits, Fees, Deposits. Any successful application for a Parklet shall pay the following permit fees as set forth in the City's Municipal Code 29:5-21:

	Fee Deposit	
1. To occupy up to 100 square feet of street area including sidewalks for each 30-day period or fraction thereof	\$250	\$300
2. To occupy any area more than 100 square feet of street area including sidewalk for each 30-day period or fraction thereof	\$350	\$400

c. Emergencies.

1. The City of Newark, by order of the Director of Public Safety or his designee and/or the Department of Engineering, Division of Code Enforcement and Inspection may require a Parklet to be removed or restrict the set-up of Parklets in the case of an emergency or imminent hazard, or for reasons of public safety or for failing to comply with any provision contained within this ordinance.
2. The City of Newark reserves the right to require the removal or temporary relocation of any parklet, within 14 days of written notice to the sponsor, for purposes of street repairs or other municipal work in or around the location of the parklet.

d. Responsibility for Restoration of the Right-of-Way.

Upon the expiration or revocation of the permit between the sponsor of a parklet and the City of Newark, the sponsor, at his/her own expense, shall remove the Parklet and any accessories or appurtenances associated with it from the public right-of-way, and shall restore the right-of-way as practicable to its original condition acceptable to the City. If the sponsor does not remove the aforementioned improvements, the City may remove such improvements and make such repairs as may be necessary to secure the property, at the sole cost and expense of the sponsor, and the cost of removal, repair and/or replacement shall be a municipal lien against the sponsor.

7.3. PERMANENT/SEMI-PERMANENT STRUCTURES.

Businesses that wish to utilize Permanent/Semi-Permanent Structures as intended for outdoor dining must adhere to all requirements of the New Jersey Uniform Commercial Code (N.J.A.C. 5:23-1.1, et seq.) and the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1, et seq.). Failure to do so will be a violation of this Executive Order. Violations are subject to revocation of a City issued license and fines as set forth below.

- a. Restaurants and Dining and Food Establishments are permitted to apply for a permit to temporarily convert areas on private property and within the public right-of-way by utilizing Permanent/Semi-Permanent Structures, specifically intended for outdoor dining where take-away food and beverages may be consumed, pursuant to the following guidelines. A Permanent/Semi-Permanent Structure may be sponsored or co-sponsored by more than one business on the block or by an entity supporting local businesses.

General Requirements; Design Standards.

- a. No parking space, parking lane or other portion of the public right-of-way shall be occupied or utilized without prior approval by the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes and/or Department of Engineering. Use of the right-of-way along a County roadway may require consent, approval or waiver by the County of Essex.
- b. Permanent/Semi-Permanent Structures shall not be located within 10 feet of a bus stop, 25 feet of a crosswalk, 10 feet of hydrants, or in handicap spaces or loading zones.
- c. The City may require that the Permanent/Semi-Permanent Structures to include a safety barrier, in a form required by the City, at the leading end of the structure facing oncoming traffic, as determined on a case-by-case basis by the Department of Engineering and/or Division of Uniform Construction Code.
- d. Permanent/Semi-Permanent Structures may be installed in areas specifically intended for outdoor dining where there is no reduction in vehicular or pedestrian visibility; no part of structure extends into the travel lane; the structure is properly anchored securely against wind. The Department of Engineering may require additional measures to ensure the safety of patrons, pedestrians, and motorists.
- e. One permanent sign identifying the sponsor of the Permanent/Semi-Permanent Structure may be installed or painted. Sign should not exceed 3 square feet in size unless incorporated as an integral part of the design and approved by the review committee and zoning officer.
- f. Where movable furniture is part of the Permanent/Semi-Permanent Structure set up, outdoor or patio type furniture must be used. Upholstered furniture is prohibited. All furniture must be able to be stored securely within the area specifically intended for outdoor dining and/or removed to a safe location nightly.
- g. Hours of operation shall be between 8:00 a.m. and 12:00 a.m. in all zones unless otherwise stipulated in the revocable agreement authorized by City Council.
- h. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the licensed establishment.
- i. Failure to comply with the guidelines stated herein shall be shall result in revocation of the permit for Permanent/Semi-Permanent Structure and those fines set forth below.

Uniform Construction Code Permit; Approval: Fees

Permit Application and fees are governed by fees established by New Jersey Uniform Commercial Code (N.J.A.C. 5:23-1.1, et seq.).

Emergencies.

The City of Newark, by order of the Director of Public Safety or his designee and/or the Department of Engineering, Division of Code Enforcement and Inspection may require a Permanent/Semi-Permanent Structure(s) to be removed or restrict the set-up of Permanent/Semi-Permanent Structure(s) in the case of an emergency or imminent hazard, or for reasons of public safety or for failing to comply with any provision contained within this Executive Order.

The City of Newark reserves the right to require the removal or temporary relocation of any Permanent/Semi-Permanent Structure(s), within 14 days of written notice to the sponsor, for purposes of street repairs or other municipal work in or around the location of the Permanent/Semi-Permanent Structure(s).

Responsibility for Restoration of the Right-of-Way.

Upon the expiration or revocation of the permit between the sponsor of a Permanent/Semi-Permanent Structure(s) and the City of Newark, the sponsor, at his/her own expense, shall remove the Permanent/Semi-Permanent Structure(s) and any accessories or appurtenances associated with it from the public right-of-way, and shall restore the right-of-way as practicable to its original condition acceptable to the City. If the sponsor does not remove the aforementioned improvements, the City may remove such improvements and make such repairs as may be necessary to secure the property, at the sole cost and expense of the sponsor, and the cost of removal, repair and/or replacement shall be a municipal lien against the sponsor.

7.4. ALCOHOLIC BEVERAGES.

No retail food establishment may sell, serve, deliver or allow consumption of alcoholic beverages in or upon any premises or upon any sidewalk cafe as defined under this Executive Order without having first obtained the necessary approval by the City of Newark Alcohol Beverage Control Board in accordance with all applicable State and Municipal regulations. Such approval is separate from and must be obtained in addition to a license to operate a sidewalk cafe.

A Sponsor of a StrEATERY and PARKLET that does not have a license to sell alcoholic beverages in the area upon which the StrEATERY and PARKLET has been authorized to operate pursuant to these regulations shall not be permitted to carry onto or consume any alcoholic beverages on such sidewalk area.

7.5. NEWARK PARKING AUTHORITY FEES.

- a. The Newark Parking Authority (NPA) should have the final approval on the location of StrEATERIES, Parklets and/or outdoor dining facilities if it proposes obstructing a metered space.
- b. If any proposed area should include removal of parking meters, the merchant shall absorb the cost. The cost for removal of a parking meter shall be up to \$1000.00 to cover equipment and labor.
- c. If the StrEATERIES, Parklets and/or outdoor dining facilities are utilizing any portion of a parking space, the business will be charged for the whole space.
- d. The cost to be paid to NPA is \$12.50 per day/per space, and
- e. Non-metered spaces should be the first option for the business.

7.6. TERMS OF LICENSE.

The StrEATERY and PARKLET license shall be personal to the applicant and may not be sold, leased or transferred and shall be deemed revoked by the sale or transfer of lease or of title to the building to which the sidewalk cafe is related.

The City, at the request of the Sponsor(s) as set forth in their application, shall issue a License to operate a StrEATERY and/or PARKLET on a seasonal basis from April 15 through October 31 or on an annual basis from January 1 through December 31, 2021. All seasonal and annual licenses must be renewed annually.

7.7. INSURANCE REQUIREMENTS.

- a. A Provider shall procure and keep in full force and effect no less than the insurance coverage required by this Section through a policy or policies written by an insurance company or companies authorized to do business in New Jersey, who are rated A- (V) or better per A.M. Best's Key Rating Guide.
- b. The insured provisions of the policy or policies must list the City and the Parking Authority when applicable as additional insureds, and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a StrEATERY and/or PARKLET.
- c. The City, its elected/appointed officials, employees, and agents shall be covered, by endorsement as additional insureds on Permit Holder's commercial general liability and commercial automobile liability policies, as respects to liability arising out of activities performed by or on behalf of Permit Holder in connection with permit holder's operation of a StrEATERY and/or PARKLET.

- d. To the extent of Permit Holder's negligence, Permit Holder's insurance coverage shall be primary insurance as respects the City, its elected and appointed employees and agents. Any insurance and/or self-insurance maintained by the City with its elected appointed officials, employees and agents shall not contribute to Permit Holder's insurance or benefit it in any way.
- e. A Permittee shall maintain the following insurance coverages:
 - i. Commercial general liability with limits of \$1,000,000 per occurrence, \$2,000,000 policy aggregate affording coverage for claims resulting from bodily injury (including death) and property damage. The policy shall be written on a primary and noncontributory basis, and should insure against premises and operations, personal injury, and contingent and contractual exposures.
 - ii. The City retains the right to require additional insurance coverage in connection with the activities performed by the Permittee under this Article as may be determined by the City's Risk Management, considering the size of the StrEATERY and/or PARKLET and other liability insurance related factors.
 - iii. Failure to maintain required insurance coverage is cause for immediate revocation of the Permit by the Administrator.
- f. Any insurance policy required by this Section must be on file with the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes, in an acceptable form prior to the issuance of a Permit under this Article.
- g. Insurance required under this Section must include a cancellation provision in which the insurance company is required to notify both the Permittee and the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes in writing not fewer than thirty (30) days before cancelling any insurance policy or before making a reduction in coverage. A Permittee, upon receiving said notice, shall file with the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes, in an acceptable form to the Department of Finance, Manager of the Office of Tax Abatement and Special Taxes, any and all replacement insurance policies prior to the cancellation or reduction of the same.
- h. A Permittee may not be self-insured

Every applicant for a license to operate StrEATERIES, Parklets and/or outdoor dining facility shall, before the license is granted, file with the Division of Tax Abatement/Special Taxes, a Comprehensive (Commercial) General Liability

Insurance Policy naming the City of Newark and the Newark Parking Authority (when applicable) as an additional insured in an amount of at least \$2,000,000 covering bodily injury and property damage arising out of any accident. The insurance policy must be issued by an insurance company authorized to do business in the State of New Jersey which has a policyholders' rating of "A" or better in the latest edition of Best's Insurance Reports. The insurance shall be on an "occurrence" basis. The policy shall agree to defend, indemnify and save harmless the City of Newark from any and all damages, judgments, costs or expense which may result by reason of the granting of the license for operation of any form of outdoor dining. The policy shall be kept in full force and effect during the operation of outdoor dining and is subject to the approval of the Corporation Counsel. Should the licensee fail to maintain the insurance as required by this section, the license shall be immediately revoked and all outdoor dining facilities shall be removed. Should the licensee fail to remove all outdoor dining facilities, the Director of Engineering shall have the same removed and charge the cost to the licensee which shall exist as a lien against the property.

7.8. HOLD HARMLESS AGREEMENT.

In addition to obtaining the insurance coverage, all business owners that wish to operate StrEATERIES, Parklets and/or outdoor dining shall execute a hold harmless agreement in which the applicant/owner of the operate StrEATERIES, Parklets and/or outdoor dining agrees to save, defend, keep harmless and indemnify the Newark Parking Authority (when applicable) and the City of Newark and all of its officials and employees from and against any and all claims, loss, damages, injury cost, liability or exposure arising out of the granting of this license for the operation of the operate StrEATERIES, Parklets and/or outdoor dining.

7.9. REVOCATION OF LICENSE.

If any StrEATERIES, Parklets and/or outdoor dining facility is found to be in violation of this executive order, the Manager, Division of Tax Abatement/Special Taxes shall conduct a hearing after providing written notice of same at least 10 days in advance thereof to all affected parties. At the request of the Manager, Division of Tax Abatement and Special Taxes, a representative of the Department of Engineering and a representative from the Office of Inspections and Enforcement of the Department of Engineering shall conduct an investigation of the StrEATERIES, Parklets and/or outdoor dining facility and report their findings to the Manager at the hearing which he/she shall conduct. If found to be in violation of this or any other chapter, he/she shall revoke the StrEATERIES, Parklets and/or outdoor dining facility license.

Upon revocation of any license by the Manager, Division of Tax Abatement and Special Taxes, he shall order the removal of the StrEATERIES, Parklets and/or outdoor dining facility within 10 days of written notice. Should the licensee fail to remove the StrEATERIES, Parklets and/or outdoor dining facility, the Director of Engineering shall have the same removed and charge the cost to the licensee which shall exist as a lien against the property.

Any applicant/establishment which has had its StrEATERIES, Parklets and/or outdoor dining facility license revoked under the terms of this chapter shall be prohibited from operating a StrEATERIES, Parklets and/or outdoor dining facility for a period of two years.

7.10. PENALTIES.

Violation of any provision of this executive order is a municipal infraction punishable by a fine of \$100. Each day a violation continues is deemed a separate offense. In addition, the City may seek any other remedies available to it at law or in equity.

7.11. RESERVATION OF RIGHTS.

The City of Newark reserves all rights, privileges and immunities concerning its public easement over all streets and sidewalks within the City whether or not any projection or encumbrance has been permitted to be erected on same without any waiver of such rights, privileges or immunities whether expressed or implied.

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THIS EXECUTIVE ORDER SHALL REMAIN IN THE CUSTODY OF THE CITY CLERK.
CERTIFIED COPIES WILL BE MADE AVAILABLE UPON REQUEST.