

**AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 225, LAND DEVELOPMENT, OF THE BOROUGH CODE**

WHEREAS, Chapter 225, Land Development, of the Borough Code governs zoning and land use issues in the Borough of Spring Lake; and

WHEREAS, the Borough Zoning Review Officer and the Administration have recommended certain clarifications, amendments, and supplements to Chapter 225 as being in the best interests of the Borough and zoning control; and

WHEREAS, the Mayor and Council, have determined that it is in the best interests of the health, safety and welfare of the residents of the Borough to amend and revise those regulations; and

WHEREAS, the following sections of Chapter 225 are amended and supplemented with deletions reflected in ~~strikethrough~~ and additions reflected in **bold underline**.

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

**Section 1.**

1. Article II, Definitions and Descriptions, Section 225-7 of the Land Development Code, is hereby amended to provide as follows:

ACCESSORY, BUILDING, STRUCTURE OR USE – A building, structure or use which is customarily associated with and is subordinate and incidental to the principal building structure or use and which is located on the same lot therewith. ~~An accessory building attached to the principal building shall be considered part of the principal building.~~ **Any building or structure on a lot, other than the principal building or structure, shall be considered an accessory structure except that an accessory building or structure that is attached to the principal building shall be considered part of the principal building.**

BUILDING – Any structure or extension thereof or addition thereto having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or the enclosing of persons, animals or property. **Accessory structures attached to a building shall be considered part of the building.**

**BUILDING COVERAGE, PRINCIPAL – The area of the principal building or structure on a property expressed as a percent of the lot area.**

BUILDING HEIGHT- **The vertical distance to the highest point of the roof.** The vertical distance shall be measured from the mean elevation of the top of curb (or proposed top of curb where none exists) along the street line to the highest point of the roof. **for principal buildings and from the average existing grade at the perimeter of a building for accessory buildings.** In the case of a corner lot, building height shall be measured from the mean elevation of the top of curb along the street line upon which the building fronts.

**DECK – An open unroofed structure or platform that is attached to or adjoining the outside of a building and that is 24” or more above the adjacent grade of the property at any point along its perimeter.**

LOT, CORNER – A lot on the junction of land abutting two or more intersecting streets **at the intersection of and having frontage on two or more streets** where the interior angle of intersection does not exceed 135 degrees. Each corner lot shall have two front yards, one side yard and one rear yard.; ~~the side yard to be designated at the time of application for a construction permit.~~ **The rear yard shall be the yard opposite the narrower street frontage, regardless of the orientation of the principal structure, except where the street frontages**

are equal the rear yard shall be the yard opposite the front door of the principal structure. In the case of developed properties with existing principal buildings already constructed thereon, the rear and side yards shall be determined as those which meet or most closely meet the setback requirements.

LOT, THROUGH – A parcel of land, other than a corner lot, that has frontage on two or more streets. Each through lot shall have one front, one rear and two side yards. The front yard shall be the yard at the front of the principal structure and the rear yard shall be the yard opposite the front of the principal structure.

PATIO – An open unroofed structure, platform or deck that is attached to or adjoining the outside of a building and that is less than 24" above the adjacent grade of the property at any point along its perimeter and which does not have a railing or wall extending above its surface along its outside perimeter.

PORCH – An open structure, platform or deck attached to or adjoining the outside of a building, having a roof supported by columns, posts or piers. Where a porch has been enclosed by screens or windows, whether fixed or removable, it shall be considered a screened or sun porch, but shall not be considered habitable floor area.

PRINCIPAL BUILDING, STRUCTURE OR USE – A building, structure or use that is the main or primary building, structure or use on a property. Any accessory building or structure that is attached to the principal building shall be considered part of the principal building.

~~STRUCTURE – Anything constructed, assembled or erected which requires the location on the ground or attachment to something having such location on the ground including buildings, fences, tanks, towers, signs, advertising devices, swimming pools and tennis courts.~~ A combination of materials forming a construction assembly or erection for occupancy, use or ornamentation whether installed on above or below the surface of the property, including but not limited to buildings, sheds, fences, walls, decks, platforms, signs, towers, greenhouses, gazebos, pergolas, stairwells, window wells, pillars, swimming pools, spas and hot tubs and cabanas.

~~YARD, FRONT — An open space extending across the full width of the lot and lying between the street line and the closest point of any building on the lot~~ any part of the front of the principal building or structure on the lot. The depth of the front yard shall be measured horizontally and at right angles to either a straight street line or the tangent lines of curved street lines. The minimum required front yard shall be the same as the required setback.

~~YARD, REAR — An open space extending across the full width of the lot and lying between the rear lot line and the closest point of the principal building on the lot~~ any part of the rear of the principal building or structure on the lot. The depth of the rear yard shall be measured horizontally and at right angles to either a straight rear lot line or the tangent of curved rear lot lines. The minimum required rear yard shall be the same as the required setback.

~~YARD, SIDE — An open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot~~ any part of the side of the principal building on the lot. The width of the required side yard shall be measured horizontally and at right angles to either a straight line or the tangent lines of curved side lot lines. The minimum required side yard shall be the same as the required setback.

2. Article V, General Development Regulations, Section 225-12, R-1, R-2 and R-3 Residential, subsection C. Maximum building height is deleted in its entirety.
3. Article V, General Development Regulations, Section 225-12, R-1, R-2 and R-3 Residential, Subsection D, Area and yard requirements, is amended to provide as follows:

Maximum Building Height	Detached Dwellings in the			Churches
	R-1 District	R-2 District	R-3 District	
Principal building	2 1/2 stories/ 35 feet	2 1/2 stories/ 35 feet	2 1/2 stories/ 35 feet	50 feet
<u>Detached private garage</u>	<u>1 story/ 18 feet</u>	<u>1 story/ 18 feet</u>	<u>1 story/ 18 feet</u>	
All accessory buildings including <u>excluding</u> detached private garage	1 story/ 15 feet	1 story/ 15 feet	1 story/ 15 feet	1 story/ 25 feet

Notes:

(1) Principal buildings may be permitted to occupy 25% of the total lot area; however, the maximum principal building coverage shall be proportionally reduced by up to a maximum of 7% of the total lot area by the area occupied by a swimming pool. The cumulative lot coverage by the principal building and swimming pool shall not exceed 25%. The calculation of the area occupied by a swimming pool shall include any patios, pavers, decking or other impervious surface surrounding or adjacent to the pool.

4. Article V, General Development Regulations, Section 225-13, RC Retail Commercial and GC General Commercial, Subsection B, Permitted Accessory Uses, is hereby deleted in its entirety and replaced with the following:

**B. Permitted Accessory and Conditional Uses**

**(1) Permitted accessory uses.**

- a. Building(s), structures(s) or uses customarily associated with and subordinate and incidental to the principal building, structure or use.
- b. Signs in accordance with the provisions specified in §225-25 of this chapter.
- c. Off-street parking and loading in accordance with the provisions specified in §225-21 of this chapter.

**(2) Permitted Conditional uses**

- a. Wireless telecommunication towers and facilities as conditional principal or accessory uses in the G-C zone subject to the requirements and limitations of Section 225-33. Wireless telecommunications towers and facilities.
- b. Outdoor cafes as conditional accessory uses in accordance with the provisions of §225-33.1., Outdoor Cafes, of this chapter.

5. Article V, General Development Regulations, Section 225-13, RC Retail Commercial and GC General Commercial, Subsection G., Outdoor Cafes, is hereby deleted in its entirety. Article V, General Development Regulations, Section 225-31.1, Outdoor Cafes is hereby amended to provide as follows:

**§ 225-31.1. Outdoor cafes.**

- A. The purpose of this section is to establish performance standards for outdoor cafés as a conditional restaurant accessory use in the RC Retail Commercial Zone of the Borough of Spring Lake. It shall be unlawful for any person, firm, partnership, corporation, association or organization of any kind (hereinafter collectively referred to as "person") to create, establish, operate, maintain or otherwise be engaged in the business of conducting an outdoor café upon the sidewalks of the Borough of Spring Lake, or on private property, unless such person shall hold a currently valid license issued pursuant to the terms of this section comply with the specifications and requirements set forth herein.
- B. Definitions. For the purpose of this section, the following words shall have the meaning respectively ascribed in this subsection:

**BUSINESS OPERATOR -- Any person, firm, partnership, corporation, association or organization of any kind who establishes, operates, maintains, or is otherwise engaged in the business of conducting an outdoor café upon the sidewalks of the Borough of Spring Lake or on private**

property.

OUTDOOR CAFE — Any eating establishment where food and other refreshments are served upon the public right-of-way, namely the sidewalks immediately in front of or on the side of any restaurant, café, cafeteria or place of business where food and/or other refreshments are served, ~~or where permitted on private property pursuant to this Chapter 225.~~

SIDEWALK — That area of the public right-of-way reserved for pedestrian traffic from the curb to the front line of the building housing an eating establishment.

- C. There shall be a minimum of seven feet from the curb edge (light poles, trees, and other objects shall be included in the measurement) directly in front of the outdoor café free and clear and available for pedestrian traffic. ~~an eating establishment as hereinabove defined. No food or drinks served at such outdoor café shall be prepared or stored other than in the interior of the eating establishment. The outdoor café may be either directly in front of or on the side of an eating establishment as hereinafter defined.~~ The term "directly in front of or side of" shall confine the café to the area represented by an extension of each side of the store occupied by the eating establishment projected directly to the curbline immediately in front thereof.
- D. All tables and chairs must be constructed of material of sufficient weight or otherwise fastened or secured so as to not be affected by high winds. The perimeter of the outdoor café may be defined and set off by a portable-type enclosure that may include live potted plantings. ~~on Borough property.~~ The enclosure shall define the perimeter of the area to be used as an outdoor café and shall separate it from the pedestrians traversing the adjacent sidewalk. The enclosure shall not contain doors or windows nor air-conditioning or heating equipment and shall be open at all times to the air and the barrier enclosure shall not have a height of more than three feet. Awnings or outdoor umbrellas extending over the enclosure are permitted, provided that the lowest portion of the awning or umbrella is not less than seven feet above the adjacent sidewalk and does not extend more than one foot beyond the enclosure.
- E. No food or drinks served at an outdoor café shall be prepared or stored other than in the interior of the eating establishment. Each licensee business operator is responsible for keeping the area of the outdoor café and the adjacent walks and streets free and clear of any debris or litter occasioned by the café. Areas must shall be cleaned as needed. ~~and at the time that business is closed and at the beginning of each business day, but not later than 9:00 a.m.~~
- F. No vending machines of any kind are permitted on the exterior of any building operating an outdoor café.
- G. No signs shall be permitted in the area of the outdoor café, except ~~awning and easel signs complying with as set forth in § 225-25 of this chapter. There shall be no "logos" or advertising upon any umbrellas without prior zoning approval. of the Planning Board. The area of any signage located upon any awning or umbrella shall be included in the overall signage permitted for each building.~~
- H. Outdoor cafés shall be permitted to operate from April 1 to October 31 in any calendar year.
- I. No tables, chairs or other equipment used in the outdoor café shall be attached, chained or in any manner affixed to any tree, post, sign, curb or sidewalk, or other property of the Borough of Spring Lake within or near the licensed area. ~~All No equipment, tables, chairs, umbrellas, etc., pertaining to the outdoor seating area shall be removed at the end of each and every evening and secured within the confines of the building. No equipment, tables, chairs or any other material of any kind shall be permitted to remain outdoors during hours in which the business is not open to the public and operating. No equipment, umbrellas, or any other material of any kind other than tables and chairs shall be permitted to remain outdoors during hours in which the business is not open to the public and operating. All chairs remaining outdoors during hours in which the business is not open to the public and operating shall be stacked and stored as close to the structure as practicable.~~
- J. The licensee business operator shall not direct or permit to be directed to or from the area occupied by the outdoor café any bell, chime, siren, whistle, loudspeaker, public address system, radio, sound amplifier or similar device.
- K. No outdoor café shall open for business prior to 7:00 a.m. nor remain open for business after 10:00 p.m. All persons occupying the outdoor café shall vacate the same no later than 10:30 p.m. ~~Table service is required if the business establishment has table service in conjunction with the service of food inside.~~
- L. ~~In the event that an establishment fronts on Third Avenue but is a corner building and has adequate space to provide tables and seating on the side street then upon proper approval seating may be established immediately in front of both the front and side of the building.~~
- M. Design standards:
- (1) The awnings or umbrellas, and chairs and tables shall be either black, forest green or hunter green in color and ~~a minimum of seven feet above the adjacent sidewalk.~~ They shall be constructed of the materials as established by resolution.
  - (2) At all times there shall remain a minimum of three feet of clearance for pedestrian traffic on the

sidewalk.

- (3) There shall be no electric fixtures other than those installed on the exterior wall of the building. Any exterior lighting shall be controlled by timers and shall not illuminate any area beyond the area directly in front of the structure utilized for the café. ~~or eating area.~~
- (4) The business operator shall ~~be responsible for providing exterior trash receptacles for garbage and waste, which design shall be established by resolution. The business operator shall be responsible for disposal of the garbage and waste.~~ **keep trash cans inside the business establishment at all times.**
- (5) All paper products and condiments shall remain inside the business establishment.

6. Article V, General Development Regulations, Section 225-20, Nonconforming lots, structures and uses, Subsection.A(2), is hereby amended to provide as follows:

- (2) On any nonconforming lot, or for any nonconforming building or structure on a conforming lot, a ~~variance~~ **zoning permit** may be granted to allow for additions to the principal structure or for the construction of an accessory building, provided that all of the following criteria are met:
  - (a) The existing use of the building or structure is permitted in the zone in which the lot is located.
  - (b) Any addition meets all bulk requirements of the zone in which the lot is located.
  - (c) The resulting building or structure does not create any new or additional bulk zoning violations.
  - (d) **Any renovation does not include conversion of an existing unfinished attic, basement or porch space that encroaches in any required yard into habitable floor area.**

7. Article V, General Development Regulations, Section 225-30, Yard Area, is hereby amended to delete the existing subsection C. in its entirety and replace it with the following:

- C. Structural projections customarily attached and appurtenant to a building or structure such as steps, window wells, light fixtures, cornices, eaves, gutters, sills, and chimneys are permitted to project or encroach into the minimum required setback up to a maximum of 24 inches.**

## **Section 2.**

All other provisions of Chapter 225 not amended or replaced herein remain in full force and effect.

## **Section 3.**

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

## **Section 4.**

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

## **Section 5.**


This Ordinance shall take effect on upon passage and publication in accordance with applicable law.

INTRODUCED: October 14, 2008

ADOPTED: November 25, 2008

APPROVED:   
JENNIFER NAUGHTON, Mayor

Attest:

  
JANE L. GILLESPIE, BOROUGH CLERK